



Northern
Ireland
Office

Consultation Paper

**DEALING WITH THE PAST
IN NORTHERN IRELAND:
THE RECOMMENDATIONS
OF THE CONSULTATIVE
GROUP ON THE PAST**

June 2009

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1. Foreword

Dealing with the legacy of the events of the last forty years remains one of the greatest challenges still facing Northern Ireland. Whilst the dramatic changes that have occurred over the last ten years have transformed Northern Ireland, the legacy of the past remains to be fully resolved.

Given the pace of change in recent years, there is a temptation to shy away from some of these challenges; to assume that Northern Ireland will be able to continue moving forward without addressing some of the hard questions which persist from the past.

This temptation is understandable but it is not without risk to long term stability. Lasting peace and prosperity in Northern Ireland will only be secure when Northern Ireland has found a comprehensive process within which to deal with its legacy issues.

The Consultative Group on the Past understood the full importance of dealing with the past. The job they were given was not easy; but they undertook their task with enormous commitment, compassion and understanding. Over the course of 19 months, they listened to many people profoundly affected by the Troubles. These people expressed a wide range of views. It is to the Group's credit that they were able to assemble so many different opinions and from these draw together a set of detailed proposals.

Perhaps therefore it was not surprising that the Group's Report created such intense debate when launched on 28 January 2009. Such passion and depth of feeling is understandable. And further debate must be encouraged, not stifled. It is of course unfortunate that one issue (the recommendation for £12,000 recognition payments) overshadowed all other proposals in the Report when it was published.

The Consultative Group in their Report called for a period of debate before the British and Irish Governments gave their responses to the recommendations. Some debate has occurred, but it has been limited almost exclusively to recognition payments and the definition of victims. As significant as these issues are, it is important that the debate should also encompass the other 30 recommendations of the Consultative Group's Report.

This consultation is designed to broaden the debate to cover all of the Group's recommendations. In launching this paper, I am calling on everyone with an interest in dealing with the past to consider each of the recommendations thoroughly and to share those considerations. I am especially asking the political leaders in Northern Ireland to engage fully in an evaluation of the proposals.

The Government is committed to finding ways to deal with the past. But I am clear that this is not an issue where decisions can be imposed; the way forward must be found on the basis of emerging and wide-ranging consensus with Northern Ireland. Achieving consensus will not be easy and if we are to do so, the leadership of the political parties in Northern Ireland will be critical, so I am calling on the parties to look with great care at each of the Group's recommendations and to share with me their opinions.

I hope that consensus around some of the proposals in this consultation paper will emerge. But whatever the outcome of the consultation may be, I am clear that the Government must continue to face up to the challenge of the past and I will continue to work to support Northern Ireland to move towards reconciliation.

Shaun Woodward
Secretary of State for Northern Ireland

2. About this consultation paper

This consultation paper invites views on the Report of the Consultative Group on the Past, which was launched on 28 January 2009. The Consultative Group made 31 recommendations. Each of the 31 recommendations is set out below and beneath each recommendation there is a short commentary which sets out some background on it. For each recommendation there then follows a number of questions. The first question on each recommendation asks simply whether you agree with the recommendation. We encourage you to at least answer this first question; we are particularly keen to understand whether individual recommendations have widespread support.

We would also welcome more detailed views on each recommendation. For each, we have suggested some further questions. These are designed to help probe further into the recommendation but we would be pleased to receive any views on other aspects of the recommendation about which we have not asked a specific question, or indeed on any aspects of the Report which are not covered by the 31 recommendations.

The commentary and questions are not intended to express the Government's view; they are intended to help people to respond to the consultation. The Government will set out its views on the Report at the end of the consultation.

Copies of the Report of the Consultative Group on the Past can be accessed from:

[www.cgpmi.org/fs/doc/Consultative Group on the Past Full Report.pdf](http://www.cgpmi.org/fs/doc/Consultative%20Group%20on%20the%20Past%20Full%20Report.pdf)

The Executive Summary of the Report can be accessed from:

[www.cgpmi.org/fs/doc/Consultative Group on the Past Executive Summary.pdf](http://www.cgpmi.org/fs/doc/Consultative%20Group%20on%20the%20Past%20Executive%20Summary.pdf)

Paper copies of the Report can be requested from the Legacy Policy Unit using the contact details on page 35.

3. The recommendations of the Consultative Group on the Past

THE LEGACY OF THE PAST AND RECONCILIATION

1. 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.

There should be no disagreement with the objective of promoting peace and stability in Northern Ireland. The Consultative Group's principal response to further support this objective is the establishment of a Legacy Commission. In their Report, the Group stated that they took account of the extensive research that has been conducted in this area and also considered the experiences of other countries around the world. Ultimately, the Group considered their proposed Commission to be a specific solution to fit the particular situation in Northern Ireland. The Group judged that it was best to address the past by allowing for a number of different functions to be provided by a single body.

Do you agree with recommendation 1?

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

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

2. 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 society issues relating to the conflict.

The Consultative Group proposed that the CVSNI should convene a Reconciliation Forum, which would have the CVSNI, the Legacy Commission and the Community Relations Council as members. Other groups could be invited to specific meetings, depending on the issues being discussed. The detail of how the Forum would work with other bodies (whether members of the Forum or not) was not set out by the Group. The Forum would develop its terms of reference, but the Group proposed a set of functions for it to fulfil (set out in recommendation 12).

Do you agree with recommendation 2?

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

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

The Consultative Group proposed that the Commission should be given £100m, which would be used to tackle society issues. The Chair of the Commission, taking advice from the Reconciliation Forum, would administer the bursary. The Group believed priority areas should be the healthcare legacy of the past, tackling sectarianism and the role of young people in society. Many of these societal issues are already being considered by Northern Ireland Departments, or by the organisations they sponsor. There is a significant potential of overlap and duplication with the work of the Executive through programmes that are already under way. The Group's Report did not discuss how the bursary would relate to any ongoing work and also did not suggest how the bursary would be paid for. In the current financial climate, plans for any new expenditure do have to be very carefully evaluated with clear benefits that would justify the cost.

Do you agree with recommendation 3?

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

How is duplication avoided?

VICTIMS AND SURVIVORS

4. *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.*

This recommendation generated a very strong reaction when the Consultative Group's Report was first launched. Many people from across the community in Northern Ireland expressed their opposition to the proposal. There were some who supported the idea. Indeed the Group have made clear that the recommendation was proposed as a response to the people who called for this during their consultation. However, the strength of opposition to this proposal overshadowed the Group's Report itself. As a result the Secretary of State for Northern Ireland made clear on 25 February 2009 that it was not the Government's intention to take this recommendation forward. Nonetheless the Government recognises that in this consultation it would be helpful to allow further public engagement on the proposal. It remains the case that the Government does not propose to take this recommendation forward.

Do you agree with recommendation 4?

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

5. *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.*

The Consultative Group met with and received submissions from many victims and groups representing the interests of victims, during the course of their consultation. Based on the views they heard, the Group judged that there were particular issues that should be addressed by the Commission for Victims and Survivors for Northern Ireland (CVSNI), as they developed their work programme. The CVSNI also have very close contact with victims and survivors and knowledge of their needs. The CVSNI have confirmed that they will reflect carefully on the Group's recommendations. We would expect them to reflect carefully on the outcome of this consultation as well, but ultimately decisions about the work programme of the CVSNI need to be taken by the CVSNI themselves.

Do you agree with recommendation 5?

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

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

6. *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.*

The Consultative Group heard from many people about the consequences of experiencing a traumatic event. They heard that the Trauma Advisory Panels which have been set up across Northern Ireland are valued by many. But they also heard some views that the healthcare system could be inflexible and wedded to certain therapeutic responses which might not be the most effective. The Group judged that the Reconciliation Forum was the best way to respond to these concerns and proposed that the Forum would have a mandate to promote the improvement of services for healthcare issues attributable to the conflict.

Do you agree with recommendation 6?

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?

THE LEGACY COMMISSION

7. 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.

The Consultative Group judged that the Legacy Commission should be headed by an International Commissioner, working with two other Commissioners. The Group's Report stated that the selection of Commissioners and in particular the International Chair of the Commission would be critical to the Commission's success. The Group recommended that the Commissioners should be appointed by the British and Irish Governments and that approval of the appointments should be sought from the Office of the First Minister and Deputy First Minister.

Do you agree with recommendation 7?

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

8. *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.

The Consultative Group proposed that their suggested Legacy Commission should have four strands of work. Each of the strands is described in more detail in following recommendations.

Do you agree with recommendation 8?

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

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

The Consultative Group judged that their proposed Legacy Commission should be given a mandate for a fixed period of five years. The Group acknowledged that this would present a demanding schedule. Nevertheless, they believed it important that the past does not become a preoccupation without limit.

Do you agree with recommendation 9?

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

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

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

In their Report, the Consultative Group considered that, in recognition of the Irish Government's special interest in Northern Ireland and of the fact that the legacy of the past in Northern Ireland is of mutual concern to them, the Irish Government should join the British Government in implementing the Group's proposals and make an appropriate contribution towards costs.

Many of the issues covered by the Group's proposals are the responsibility of the devolved administration. The Group did acknowledge that OFMDFM should join the British and Irish Governments in implementing the proposals, but the Group did not set out in detail how responsibility for implementation should be shared between OFMDFM, the British Government and the Irish Government.

Do you agree with recommendation 10?

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?

SOCIETY ISSUES

11. *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.*

Alongside the terrible physical consequences of the violence, the Consultative Group acknowledged that society itself had been badly and extensively damaged. The Group judged that a significant element of dealing with the past was to tackle the societal problems created by the period of the Troubles.

Do you agree with recommendation 11?

Should societal issues be dealt with by a Legacy Commission?

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

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

12. *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.*

The Consultative Group proposed a Reconciliation Forum in recommendation 2. This recommendation sets out the functions that the Forum should fulfil.

Do you agree with recommendation 12?

Are these the right functions for a Reconciliation Forum?

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

The Consultative Group judged that it was necessary for the Chair of their proposed Legacy Commission to act as a champion for the societal issues that the Group referred to in recommendation 11. The Group's Report noted that the Chair should promote debate, set direction, highlight where sectors of the community can do more and monitor the progress made. The Group acknowledged that the Chair should work with other members of the Reconciliation Forum, but the Report did not go into detail as to how the role of the Forum and the role of the Chair as champion would inter-relate.

Do you agree with recommendation 13?

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

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

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

The Consultative Group acknowledged that non-sectarianism is easy to request but difficult to achieve unless it is addressed at all levels of society. The Group judged that tough decisions are needed about the fundamental structures of society. The Group noted that many statutory and non-statutory groups are working to combat sectarianism but that other groups are not yet engaged. The Group considered that the Chair of the proposed Legacy Commission should provide a challenge function to all these groups, whether engaged or not. The Chair would lead the debate on sectarianism, set the direction for how society can move forwards towards non-sectarianism and how respect of difference can be achieved.

Do you agree with recommendation 14?

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

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

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

15. *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.*

The Consultative Group judged that the Christian churches carry particular historical responsibility related to the Troubles; the Group stated the churches not only gave the language which shaped and fuelled division, but often gave sanction to those who exploited theological differences for political and territorial gain. The Group's Report stated that Christian churches have a responsibility to take a leading role within communities for addressing the destructive presence of ongoing sectarianism.

Do you agree with recommendation 15?

16. *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 as recruitment.*

The Consultative Group heard from a number of people about difficulties experienced by those with conflict-related convictions. Ex-prisoner groups referred to problems applying for jobs and obtaining credit. The Group noted the findings of the working group co-chaired by Sir George Quigley and Sir Nigel Hamilton. The working group's guidance stated that "any conviction for a conflict-related offence that pre-dates the Good Friday Agreement (April 1998) should not be taken into account unless it is materially relevant to the employment being sought." The Group considered that the voluntary guidance was not well used and proposed that the guidance be incorporated into statute.

Do you agree with recommendation 16?

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

PROCESSES OF JUSTICE AND INFORMATION RECOVERY

17. 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.

The Consultative Group noted in their Report that they did not believe that existing legal processes fully meet society's needs. They acknowledged that they viewed the Historical Enquiries Team (HET) as innovative and valuable but the Group were concerned that dealing with historical cases has become an increasing burden on the PSNI and the Police Ombudsman. In their Report, the Group advocated an independent Unit, within their proposed Legacy Commission. The new Unit would have police powers with which to investigate cases. If there was sufficient evidence, the Unit would refer cases to the Public Prosecution Service, although the Group envisaged that very few prosecutions would result. The Group proposed that the Unit should review all historical cases, but they believed that the vast majority of cases already investigated by the HET and the Police Ombudsman could be quickly dealt with.

Do you agree with recommendation 17?

Would it be an improvement on the present arrangements?

If a new Unit were established, how should it determine which cases it should examine?

18. *The new Review and Investigation Unit would take over the work of the Historical Enquiries Team and the Police Ombudsman's Unit dealing with 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.*

The Consultative Group noted that currently the investigation of historical cases is divided between the HET and a special team within the Police Ombudsman's Office. The Police Ombudsman has responsibility for investigating grave or exceptional cases where the incident occurred more than a year ago, and where there are allegations of police misconduct. The Group observed that so far, 55 out of 122 historical cases have been referred to the Ombudsman by the HET. They noted that this inevitably means that there is some duplication of investigations and they suggested in their Report that creating a new Unit would remove this duplication. However, they also noted that there would be complex logistical issues around the creation of a new investigations Unit. Currently the Ombudsman's historical cases are not restricted to cases involving deaths or to incidents that occurred before April 1998. The Group's Report did not go into detail about whether the Ombudsman or the Review and Investigation Unit would be responsible for such cases.

Do you agree with recommendation 18?

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

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

19. *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.*

The Consultative Group noted in their Report that, while complete truth might be unattainable, they believed it might still be possible to recover information of importance to families and society. The Group did not believe that the HET's mandate to answer questions sat easily with its pursuit of criminal justice. The Group judged that information recovery could best be achieved through a separate process within the proposed Legacy Commission. An Information Recovery Unit would deal with individual cases. The Group proposed that the Unit would be flexible in its procedures, making informal contacts with different people as well as having formal power to compel documents. The Group also proposed that individuals would be able to make "protected statements" to the Unit. These protected statements would not be admissible in criminal or civil proceedings against the person making the statement. This proposal was aimed at encouraging free and frank disclosure of information.

Do you agree with recommendation 19?

Should information recovery be separate from investigations?

Do you agree with the use of protected statements?

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?

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

20. *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.*

The Consultative Group judged that, alongside information recovery for individual cases, there was a need to examine linked cases and themes arising from the conflict. They suggested that these themes might include specific areas of paramilitary activity or alleged collusion. The Group suggested that the purpose of thematic examinations would not be to name or blame individuals but to obtain a greater understanding of the conflict, of what went wrong and why it went wrong. The Group suggested that there should be a specific Thematic Examination Unit. Like the Information Recovery Unit, the Thematic Examination Unit would not hold public hearings. It would have the power to compel documents and it would also have the power to compel individuals to give evidence. The Group proposed that people compelled to give evidence would have the right to legal representation but there would be no general circulation of documents and no cross-examination.

Do you agree with recommendation 20?

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

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

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

21. 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.

There are currently four public inquiries examining past events in Northern Ireland; the Bloody Sunday Inquiry and the Hamill, Wright and Nelson Inquiries. The Consultative Group noted that the issue of the cost of these public inquiries has been aired on many occasions. They also recorded other criticisms that they had heard, including that inquiries raised hopes which are rarely completely fulfilled, that some people found the process of giving evidence to an inquiry and being cross-examined traumatic, and that inquiries have placed the police and prison services under particular scrutiny, when other aspects of the conflict are not treated in the same way. The Group noted their belief that their proposed information recovery and thematic examination procedures would avoid the need for any further public inquiries into historical cases.

Do you agree with recommendation 21?

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

22. The outstanding Inquests would remain with the Coroners Service. Criminal case reviews would continue to be pursued through the Criminal Cases Review Commission.

The Consultative Group stated in their Report that they were concerned at the burden placed on the Coroners Service by inquests into historical cases. The Group had hoped to make a clear recommendation on this issue, but noted that this had proved difficult to achieve. The Group hoped that their other recommendations would reduce the burden on the Coroners Service. The Group proposed that their suggested Legacy Commission should monitor the burden of historical cases on the Coroners Service and if necessary make recommendations to Government.

In their Report, the Group stated that they had adopted a similar approach to criminal case reviews. They did not propose making changes to existing procedures of the Criminal Case Review Commission (CCRC) but they did suggest that the Legacy Commission should monitor the burden of historical cases on the CCRC and, if necessary, make recommendations to Government.

Do you agree with recommendation 22?

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

23. *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.*

The Consultative Group stated that they gave serious consideration to the question of amnesty. They judged that an amnesty would allow greater focus on information recovery and would take account of the fact that the chances of successful prosecutions are fast receding. However, the Group acknowledged that developing practice in international law points strongly against amnesties. They also took account of the view expressed by some politicians and victims that the route of investigation and prosecution should be left open. The Group therefore concluded that there should not be an amnesty but that their proposed Legacy Commission should make recommendations on how a line could be drawn at the end of its five-year mandate. The Group's Report did not give more information about what drawing a line might entail.

Do you agree with recommendation 23?

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

What are your views on the question of amnesty?

REMEMBERING

24. 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.

In their Report, the Group suggested that the Chair of the proposed Legacy Commission should work with CVSNI through a Reconciliation Forum to ensure that the full spectrum of perspectives on the conflict are brought together with both individual and community stories. The Group voiced particular concern about the impact of the conflict on young people. They proposed that young people should be encouraged to participate in storytelling and that education programmes be developed which inform young people, in a balanced way, about the nature and impact of conflict. The Group also argued that forgiveness and reconciliation need to take place within communities as well as between communities. They suggested that the CVSNI should facilitate the telling of stories about intra-communal difference in a manner which enhances reconciliation, engages both paramilitaries and state agencies, recognises that hurt and bitterness remain and challenges communities to find better ways to relate and interact.

Do you agree with recommendation 24?

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

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

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

What more could be done on this issue?

25. 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.

The Group suggested that how society remembers the past is highly significant as that society moves out of conflict. They believed that CVSNI have a lead role to play in considering how the conflict is remembered, but they noted that this must go beyond the narrow field of victims and survivors and challenge wider society, including governments, churches and businesses. The Group also suggested that the Chair of their proposed Legacy Commission should have a role in promoting remembering activities at both an individual and community level and that he or she should support the CVSNI in their work around remembering through the proposed Reconciliation Forum.

Do you agree with recommendation 25?

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

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

26. *Future Storytelling initiatives should be developed taking account of certain criteria.*

The Group stated that storytelling is an important feature of any conflict transformation process. They suggested that future storytelling initiatives should have a number of goals in mind - including listening to the stories of others as well as telling one's own story, accepting the importance of all sectors of society telling their stories and providing opportunities for storytelling to take place in a context where the experience of those involved can be validated by an authoritative listener. The Group stated that participants must be able to tell their story freely in a private context where they should also be able to omit information which may put them at risk either from prosecution or retaliation – before their story is put in the public domain. The Group argued that there must be oversight of the stories made available to the public to ensure that the risk of prosecution or retaliation is not increased. The Group also felt that it was important that storytelling should not be used to fit a political agenda, rather it should be seen as a process designed to facilitate individual and societal healing and to break the cycle of conflict. The Group proposed that a Reconciliation Forum should encourage organisations to adhere to criteria for storytelling and to collate stories in an appropriate way. They suggested that the Chair of their proposed Legacy Commission should seek to influence the criteria for receiving funding in order to ensure that initiatives have reconciliation at their heart.

Do you agree with recommendation 26?

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

27. *Full support should be given by government, the private and voluntary sector, including the churches, to the continuation 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.*

In their Report the Group suggested that an event involving public commitments to peace by key organisations and statutory bodies would be a positive addition to a Day of Reflection. They recommended that their proposed Legacy Commission, through a Reconciliation Forum, should take the lead in pursuing this goal. They suggested that the Chair of the proposed Commission should work with Healing Through Remembering to promote the existing Day of Reflection and work towards developing it into an official day for all society. They stated that the Chair, again through a Reconciliation Forum, should encourage the development and distribution of guidance for groups planning events to be held on a Day of Reflection and should also seek to influence the content of that material to ensure that the planned activities help individuals and communities move towards a shared and reconciled future. The Group recommended that the Chair should liaise across civic society, with the business, media, health and education sectors to encourage them to make a statement on this day confirming their commitment to peace and reconciliation, and that the Chair should also work with the churches to call upon their congregations to reflect on the level of reconciliation already achieved and how this can be built upon together.

Do you agree with recommendation 27?

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

How would this work?

28. Each year, on or around the Day of Reflection and Reconciliation, the First Minister 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.

The Group suggested that a keynote address by the First and Deputy First Ministers would provide an opportunity for elected leaders to lead by example by directing society to reflect upon the past in a positive way and to confirm their commitment to lead Northern Ireland towards a shared and reconciled future.

Do you agree with recommendation 28?

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

29. *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.*

The Group argued that the end of their proposed Legacy Commission's five year work span should mark a significant transition from the past to the future in Northern Ireland and they recommended that the Commission should consider whether further measures should be taken at that stage to draw a line under the past to enable Northern Ireland to move towards a shared future. They suggested that the proposed Reconciliation Forum, involving the International Commissioner and the CVSNI, should take the lead in implementing an initiative at the end of the five year mandate to conduct a ceremony to remember the past and all those who suffered during the conflict.

Do you agree with recommendation 29?

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

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

30. *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.*

The Group reported that during their public consultation many expressed their strong view that people in Northern Ireland should have the right to live free from any fear or prospect that they would be killed or injured on political grounds. The Group stated that they were persuaded that this desire should be formalised. They suggested that a declaration be made at the end of the proposed Legacy Commission's work.

Do you agree with recommendation 30?

Would you be willing to sign such a declaration?

Who else do you think should sign such a declaration?

How would such a declaration be used in practice?

31. *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 to Government in this regard.*

The Group stated that they do not believe a shared memorial could be agreed at this time. They said that the issue of memorials remains contentious for many and that they could not see any consensus, but that the idea should be kept under consideration by the proposed Legacy Commission. The Group recommended that any memorial should observe certain criteria, including directing people to a shared and reconciled future, commemorating the impact of the conflict on all society and helping to bring people from all sides of the community towards a shared acknowledgement of one another's suffering. The Group were not prescriptive about what form a future memorial should take, but they believed that it should be an uplifting structure that commemorates the past without glorifying it and demonstrates how Northern Ireland society has changed.

Do you agree with recommendation 31?

What are your views on a shared memorial?

How do you believe this would help?

Do you agree with the criteria suggested by the Group?

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

4. Equality

Section 75 of the Northern Ireland Act 1998 requires the Northern Ireland Office, in carrying out its functions to '*have due regard to the need to promote equality of opportunity –*

- (a) between persons of different religious beliefs, political opinion, racial group, age, marital status or orientation;*
- (b) between men and women more generally;*
- (c) between persons with a disability and persons without; and*
- (d) between persons with dependants and persons without.'*

In addition, the NIO must '*have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.*'

The proposals made by the Consultative Group on the Past and set out in this paper, are designed to support Northern Ireland society to build a shared future that is not overshadowed by the events of the past. The proposals are intended to have a positive impact on people across the section 75 categories.

Government policy on how to deal with the past has not yet been set and policy development will be affected by the outcome of this consultation. Any policies that arise from this consultation will be screened for their impact on equality of opportunity in accordance with the guidance produced by the Equality Commission for Northern Ireland. If it emerges that a policy could have adverse implications for equality of opportunity for any of the section 75 equality categories, an Equality Impact Assessment will be carried out and ways of either avoiding or mitigating the effect considered.

As part of this consultation exercise we would welcome your views on the equality impact of the Consultative Group's recommendations. In particular, we would welcome any comments in relation to the following questions:

Do you believe that any of the Consultative Group's proposals will have a positive impact on people within any of the section 75 categories?

Do you believe that any of the Consultative Group's proposals will have an adverse impact on people within any of the section 75 categories?

If so, are there any measures that should be implemented to mitigate against adverse impact on people in the section 75 categories?

Will any of the proposals affect the promotion of good relations between persons of different religious belief, political opinion or racial group?

Do you have any other comments on the equality impact of these proposals?

5. How to respond to the consultation paper

We welcome your responses and comments on any aspect of this document. The deadline for responses is 2 October 2009. A Response Form is available on the NIO's website: www.nio.gov.uk. The form can be used to help you prepare your response. However, you do not need to use this form and you can submit your response by letter, e-mail or fax to:

Legacy Policy Unit
c/o Room B3.18
Block B
Castle Buildings
Stormont Estate
Belfast
BT4 3SG

Telephone: 020 7210 6503 Fax: 020 7210 6565
Textphone: 028 9052 7668 email: legacypolicyunit@nio.x.gsi.gov.uk

Alternative formats

An electronic version of this document is available to view and download from the Northern Ireland Office's website: www.nio.gov.uk. Hard copies will be posted on request. The text phone details are provided above. Copies in various other formats, including large print, Braille, audio cassette, computer disk etc may be made available on request. If you wish to access the document in an alternative format or language, please let us know and we will do our best to assist you.

Confidentiality of responses

Following completion of the consultation process a summary of responses will be published. Unless individual respondents specifically indicate that they wish their response to be treated in confidence, their name and the nature of their response may be included in any published summary of responses. Respondents should also be aware that our obligations under the Freedom of

Information Act may require that any responses not subject to specific exemptions under the Act be disclosed to other parties on request.

6. After the consultation

At the end of the consultation period, the Government will analyse all the responses. A summary of the responses will be published on the NIO website. The Government will prepare a response to the Report of the Consultative Group on the Past; in consultation with the Irish Government and the devolved administration.

7. The Consultation Criteria

The Government has adopted a set of criteria for consultations, which apply to public consultations by government departments. These are set out below.

Criterion 1 When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2 Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3 Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4 Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5 The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6 Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7 Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The code does not have legal force but is regarded as binding on UK departments and their agencies unless Ministers conclude that exceptional circumstances requires a departure from it. The full code may be viewed at:

www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html

If you have any concerns or complaints about this consultation, or you have any other observations about ways of improving the consultation process, then please contact the Northern Ireland Office's consultation co-ordinator, Donna Knowles, at:

Central Management Unit

Northern Ireland Office

Stormont House

BELFAST, BT4 3SH

Telephone: 028 9052 7015

Textphone: 028 9052 7668

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