

Initial Briefing Document on UK-Ireland Joint Framework on the ‘Legacy of the Troubles’ (September 2025)

Executive Summary:

- The Joint Framework marks a return to a bilateral UK-Ireland legacy process, alongside human rights standards it provides an important benchmark for forthcoming legislation.
- Good faith implementation will be essential: particularly in the context of the track record of UK Governments backsliding when translating peace process agreements into legislation and trust currently being at absolute rock bottom due to the Legacy Act and ICRIR.
- The framework commits to ‘fundamental reform’ of the ICRIR to transform it into a new Legacy Commission and provide a ‘fresh start’. The new Commission will conduct proper criminal investigations, but there is no express commitment they will follow ECHR standards.
- The Framework discontinues the roles of the current ICRIR Commissioners (bar the CEO).
- The Framework provides for new Legacy Commission structures with an Oversight Board, and two Co-Directors for Investigations. New appointments will still be made by the Secretary of State, with ‘advice’ from a panel of (as yet unnamed) persons. Effective, credible leadership will be crucial to confidence in the new Legacy Commission.
- The Framework recognises the ICRIR Commissioner for Investigations model does not address conflict of interest concerns at a senior level. In general, there are commitments to ‘robust’ and ‘extensive’ conflict of interest duties on a statutory footing, including consultation with families. The criteria for these new duties is yet to be set out.
- The Framework commits the UK, through a Remedial Order this year, to repealing the ban on civil court proceedings in legacy cases and repealing the amnesty scheme.
- The Stormont House cross-border Independent Commission for Information Retrieval (ICIR) is to be established under the new Framework, initially on a three year pilot basis.
- The main area of concern is the retention of a national security veto whereby the Secretary of State will still be able, with no merits-based appeal, to remove ‘sensitive’ information out of Legacy Commission reports to families.
- The ‘national security veto’ will enable the Secretary of State to conceal which conflict-related killings attributed to paramilitaries were in practice extrajudicial executions due to the involvement of agents of the state. The veto can also conceal the involvement of state agents in torture and other violations. This is incompatible with international law.
- UK legislation will remove the ban on legacy inquests but will not automatically reinstate all outstanding inquests. Instead, the legislation will also establish a new ‘Inquisitorial Mechanism’ within the new Legacy Commission to substitute inquests (the ICRIR’s model having been found to be incompatible with the ECHR). The rationale for this relates to ‘sensitive’ information and the retention of a national security veto. The UK Solicitor General will take decisions as to whether outstanding inquests are dealt with as inquests or within the Inquisitorial Mechanism.
- There is a reference to statements of acknowledgement. Reform of Legacy Act provisions on memorialisation and oral history are not referenced in the Framework.
- There are commitments to Irish legislation and cooperation between the An Garda Síochána and new Legacy Commission.

Introduction

The Committee on the Administration of Justice (CAJ) is an independent human rights NGO with cross community membership in Northern Ireland and beyond. It was established in 1981 and campaigns on a broad range of human rights issues. CAJ seeks to secure the highest standards in the administration of justice in Northern Ireland by ensuring that the Government complies with its international human rights obligations. CAJ is the UK member of the International Federation of Human Rights (FIDH).

The British and Irish Government's published their Joint Framework legacy document on the 19 September 2025.¹ This is an initial response to same from CAJ benchmarking the document against our November 2024 publication on the viability of root and branch reform of the ICIR, the institution unilaterally created by the 2023 Legacy Act.²

Background on Northern Ireland legacy investigations

- The 1998 Good Friday Agreement (GFA) did not contain specific transitional justice mechanisms or other measures to investigate conflict-related violations.
- A series of cases taken by CAJ and others to the European Court of Human Rights (ECtHR) in the early 2000s found that the then Northern Ireland justice system was incapable of delivering independent and effective investigations into killings involving the security forces and paramilitary collusion. The UK had therefore violated the procedural obligations of Article 2 of the European Convention on Human Rights (ECHR).
- In order to implement these ECtHR rulings, the UK agreed a 'Package of Measures' with the Council of Europe. This involved significant reforms to the NI justice system to enable ECHR-compliant investigations into deaths to take place, by existing mechanisms including the inquest system; Police Ombudsman; and PSNI and independent 'called in' police investigations.
- The GFA also obliged the incorporation of the ECHR in NI law. This meant victim's families could, in the domestic courts, enforce ECHR procedural obligations for independent investigations into conflict-related killings (whether by paramilitary groups or the state).
- A series of negotiations between the two Governments and NI Parties ultimately also led to the UK-Ireland 2014 Stormont House Agreement, which was to establish dedicated transitional justice mechanisms. This included an Historical Investigations Unit (HIU) and cross-border Independent Commission on Information Retrieval (ICIR). There were also provisions for an Oral History Archive and mechanisms for themes and patterns.
- Implementation of Stormont House was initially derailed by the UK insistence in inserting a 'national security veto' in the draft implementation legislation. The veto empowered the Secretary of State to redact out information from HIU and ICIR reports to families regarding the involvement of state agents in killings and other violations.
- Whilst the two Governments in NDNA in 2020 recommitted to implementing Stormont House, the then British Government of Boris Johnson unilaterally reneged on the deal. Instead pursuing the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023.
- The consequent 2023 Legacy Act:
 - Introduced a wide amnesty scheme.

¹ [The Legacy of the Troubles: A Joint Framework between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland](#), September 2025.

² [What could substantive 'root and branch' reform of the ICIR look like? and would it be enough?](#) (CAJ, November 2024)

- Closed the Package of Measures on the 1 May 2024, banning further investigations by the NI justice system, and inquests. It also banned civil court proceedings in legacy cases.
- Established the 'Independent Commission for Reconciliation and Information Recovery' ICIR to take forward 'reviews' in legacy cases.
- Contained provisions on 'Memorialising the Troubles' in Part IV of the Act.
- The Legacy Act and ICIR were heavily criticised by United Nations and Council of Europe human rights experts and treaty-bodies; and led to an Inter-state case taken to the ECtHR by Ireland (*Ireland v UK no 3*) and domestic litigation by victims' families.
- The then British Government had sought to justify the closure of the Package of Measures and establishment of the Legacy Act and ICIR, claiming it would end a 'witch-hunt' against military veterans in legacy cases. By contrast a Report issued by the [*International Expert Panel into State Impunity and the Northern Ireland Conflict*](#) concluded following its year-long analysis that the UK had '*operated a widespread, systematic, and systemic practice of impunity.*'
- In September 2024 the Northern Ireland Court of Appeal in the Dillon and others test case challenging the Legacy Act, ruled that a number of core provisions of the Act and ICIR were in breach of the ECHR. This included the amnesty scheme; the ban on civil court proceedings; the ban on legacy inquests; the ICIR's proposed Enhanced Inquisitorial Procedures (a pseudo-inquest model) and the national security veto.
- Some provisions, reflecting an earlier High Court ruling, were also found to be incompatible with GFA rights protected by retained EU law obligations under Article 2 of the NI Protocol/Windsor Framework to the UK-EU withdrawal Agreement and hence were automatically disapplied. This meant that the ICIR's amnesty scheme was never opened.
- In July 2024 a new UK Labour Government was elected with a manifesto commitment to repeal and replace the Legacy Act. This did not then happen. Instead, the new administration, decided to retain the ICIR but committed to reform the institution; and continued to appeal some of the adverse court findings to the UK Supreme Court.
- In September 2024 the UK Government announced it would honour a peace-process agreement commitment to establish a public inquiry into the death of human rights lawyer Pat Finucane.
- The new UK Government also continued legal challenges against Coroners seeking to ask the courts to read in a 'national security veto' over judicial disclosure to families in NI legacy inquests. The Secretary of State for Northern Ireland (SOSNI) lodged judicial review proceedings to prevent a Coroner in the inquest of *Paul Thompson* revealing a summary of intelligence information. The SOSNI also retrospectively lodged judicial review proceedings after a Coroner had revealed state agents were linked to the murder of *Sean Brown*, contending that the Coroner should not have revealed this. The Thompson challenge failed in the NI courts but were appealed by the SOSNI to the UK Supreme Court. The SOSNI has also appealed rulings in the NI Courts that there must be a public inquiry into the Sean Browns' murder.
- A number of reports of legacy investigations which were completed before the Legacy Act deadline of 1 May 2024, have been released since then and more are to be released before a deadline at the end of October 2025, this includes Ombudsman, Inquest and independent police investigations (Kenova) etc. A number of prosecutions which also predate the Legacy Act deadline, including the current Bloody Sunday trial of Solider F are also ongoing.

The Joint Framework Paper, 19 September 2025

The publication by the British and Irish Governments of Joint Framework on the 19 September 2025, occurs in advance of the UK Supreme Court hearing the SOSNI's appeal in the *Dillon and others* (scheduled for 15-17 October 2025).

In the *Dillon* appeal the SOSNI is appealing the findings that the Legacy Acts ban on inquests (and its replacement with the ICRIR's pseudo inquest model) and the related 'national security veto' were unlawfully in breach of the ECHR. The appeal also covers findings of incompatibility with the Northern Ireland Protocol/Windsor Framework.

As set out in the document itself it is planned that the Joint Framework will be followed by:

- A UK Remedial Order 'before the end of 2025' to repeal the Legacy Act's amnesty scheme and ban on civil proceedings.
- UK Primary Legislation which will take forward 'fundamental reforms' to the ICRIR to transform it into a Legacy Commission for a 'new start'; and remove the ban on legacy inquests, but also establish a judge-led Inquisitorial Mechanism within the new Commission.
- Irish Government legislation on cooperation with the Legacy Commission.
- The two Governments will also take forward the establishment of a cross-border body on information retrieval, (as per Stormont House ICIR) initially as a three-year pilot.

In the Joint Framework both Governments recognise matters including that the:

- Legacy Act (which is essentially the ICRIR and the Part IV memorialisation provisions) is 'not fit for purpose.'
- ICRIR 'Commissioner for Investigations' model does not provide scope to address conflicts of interest at a senior level.
- ECHR is a cornerstone of the GFA.

It is not clear if the UK primary legislation will 'repeal and replace' the Legacy Act with a new statute in line with the Labour's manifesto commitment or amend the existing Legacy Act.

There is also commentary from both Governments regarding the importance of statements of acknowledgement, and the potential for them from the Governments and others. The future of the memorialisation provisions in Part IV of the Legacy Act is not dealt with in the Joint Framework.

A transitional process envisages the Legacy Commission taking over from the ICRIR within four months of the legislation completing passage.

A new five-year period will start then for the Legacy Commission, which could be extended.

Once the Legacy Commission closes the ban on police legacy investigations will be lifted (future Ombudsman cases remain unclear.)

The UK Government had previously pledged £250 million to the ICRIR, this is not referenced in the Joint Framework, but it does state the Irish Government, will contribute a further €25 million (as well as jointly funding the ICIR).

No agreement is contained regarding discontinuing the Inter-State case, which presumably will remain until there is good faith implementation of commitments by the UK.

Themes and Patterns

There is no provision in the Framework for any new mechanism to examine themes and patterns.

The International Expert Panel recommended that the two Governments: *seek to establish, with the assistance of the United Nations and Council of Europe human rights mechanisms, an independent*

*international commission to thematically examine patterns of human rights violations and impunity during the Northern Ireland conflict, including torture and collusion, with legislation to provide full powers of disclosure.*³

The ICIR and new Legacy Commission

The 2024 CAJ Report on whether ICIR reform was viable concluded: *“Only a substantive and meaningful ‘root and branch’ reform process to produce an entirely distinct institution to the ICIR, with a different name, legal framework and leadership unrecognisable to what is presently in place could render reformed legacy institution viable, in the context of both human rights compliance and building sufficient confidence.”*

If implemented in a human rights compliant manner the Joint Framework has the potential to achieve this goal, but significant detail is awaited.

The Joint Framework commits to ‘fundamentally reform’ the ICIR, including its renaming and changes to roles and structures ‘to reflect a new start’. Specifically, there will be ‘new governance structures and independent oversight arrangements.’⁴

The Joint Framework discontinues the roles of the ICIR Commissioners. It appears to provide that the current ICIR CEO role will cease to be a commissioner but continue as CEO (and in public authority terms an ‘accounting officer’) in the new structure.

The internal governance of the Legacy Commission will be undertaken by a statutory ‘Oversight Board’ with a Chair and other members. The role of ICIR Chief Commissioner and the other ICIR Commissioners is discontinued. There will also be a statutory (i.e. provided for in the legislation) ‘Victims and Survivors’ Advisory Group’ representing ‘the voices of all those affected’.

There will be two functions within the Legacy Commission:

- The first will be an investigations function, led by two ‘Co-Directors for Investigations of equal standing’, to conduct police-type investigations.
- The second will be a judge-led Inquisitorial Mechanism to emulate inquests.

The details of these two functions are further elaborated on below.

Legacy Commission: Appointments

The credibility and success or otherwise of the Legacy Commission will depend in large part on the effectiveness of new leadership and its staffing. The making of appointments to the new Commission will therefore be a crucial element of reform. This is particularly in the context whereby well qualified and experienced experts, domestically and internationally, who would be an asset to a legacy body, would not have applied to work in the ICIR given the agenda behind it. Appointments of ICIR Commissioners were unilaterally made by the SOSNI in the previous UK Government.

The Joint Framework provides that it will still be the SOSNI who – will appoint the members of the Oversight Board, Victims and Survivors Advisory Group’ along with the new ‘Co-Directors for Investigations’ posts, and a judicial panel. In making these appointments the SOSNI will be under a duty to take *advice* from a ‘panel of relevant person/s’ and to publish that advice.⁵ It is not specified in the Joint Framework who the relevant person/s will be.

In the 2018 official draft implementation legislation for Stormont House the appointments of Directors of the Historical Investigations Unit (HIU) would be made by the Northern Ireland Minister

³ ‘Bitter Legacy’, [The Report of the International Expert Panel into State Impunity and the Northern Ireland Conflict](#) (April 2024) See summaries in media including the [Irish Times](#) and [Guardian](#)

⁴ Joint Framework, p3.

⁵ Joint Framework, paragraph 2.

of Justice on the *recommendation* of an Appointments Panel consisting of a number of office holders.⁶

The Legacy Commission and Conflicts of Interest

Under ECHR Articles 2 & 3 there are requirements for ‘practical’ as well as institutional independence in legacy investigations. As set out in ECtHR guidance this *“means that persons responsible for and carrying out an investigation must be independent from those implicated in the events. This means not only a lack of hierarchical or institutional connection but also a practical independence.”*⁷

Whilst of broader application this question has tended to arise in relation to the involvement of former RUC officers in NI legacy investigations. This is not to question the integrity of individual former RUC officers but rather raises issues of practical independence requirements and conflicts of interest, given as legacy investigations will inevitably involve probing the role of the RUC and the broader security forces in legacy cases. This includes examination of previous RUC investigations and the actions of agents of the state run by the RUC and other agencies in legacy cases.

In this context previous Package of Measures legacy investigations by Operation Kenova and the Police Ombudsman precluded the involvement of former RUC and military officers. This was not the case with the PSNI Historical Enquiries Team (HET) which was consequently closed down following a damning report from Her Majesty’s Inspectorate of Constabulary (HMIC) which found the HET approach incompatible with the ECHR, in particular due to the involvement of former RUC officers.⁸ The ICRIR departed from the practices of Kenova and the Ombudsman and presently employs 27 former RUC officers, and up to 9 former military officers.⁹ The current ICRIR Commissioner for Investigations is a former senior RUC/PSNI officer, who presided over the C3 Special Branch.

The human rights law framework for practical independence, as well as broader UK practice, was recently detailed in a paper by the Northern Ireland Human Rights Commission (NIHRC). Reflecting its long-held position on practical independence requirements the NIHRC has from the outset been critical of the arrangements in the ICRIR, including specifically in relation to the conflicts with the ICRIR role of Commissioner for Investigations.¹⁰

The practical independence issues regarding the ICRIR Commissioner for Investigations role are recognised by both the British and Irish Governments in the Joint Framework which states *“the ICRIR model of a single Commissioner for Investigations does not provide scope to fully address conflict of interest concerns at the most senior level.”* As a consequence the Joint Framework discontinues the role and states *“the Legacy Commission will instead have two Co-Directors for Investigations.”*¹¹

The Joint Framework provide that *“one Co-Director will have experience of conducting criminal investigations in Northern Ireland, and one will not have that experience but will have experience of conducting criminal investigations outside Northern Ireland.”* The former category does not require co-directors (or investigators) to be former RUC/PSNI officers as former Police Ombudsman and Kenova investigators would meet that requirement.

⁶ Namely: Attorney General for NI; NI Victims Commissioner; Head of NI Civil Service; an experienced investigator appointed by NI Minister of Justice. Panel to follow Code of Practice issued by NI Commissioner for Public Appointments.

⁷ ECtHR [Guide on Article 2 of the European Convention on Human Rights Right to life Updated on 31 August 2023](#) para 158.

⁸ HMIC ‘Inspection of the Police Service of Northern Ireland Historical Enquiries Team’ 2013, p92. The HMIC held that *‘the independence necessary to satisfy Article 2 can only be guaranteed if former RUC officers are not involved in investigating state involvement cases.’*

⁹ ICRIR FOI-2025-19, figures for August 2025.

¹⁰ [Publication - Northern Ireland Human Rights Commission Legacy Note | Northern Ireland Human Rights Commission](#)

¹¹ Joint Framework, paragraph 6.

As regards conflicts of interest safeguards among investigators in general in the broader Legacy Commission the Joint Framework, commits to legally binding ‘robust’ and ‘extensive’ conflicts of interest duties within the legislation.¹² The duties will be overseen by the CEO rather than Investigations Directors and the Commission will be under a duty to consult with families “allowing them to raise an objection if they have concerns about conflicts of interest relating to officers involved in their case.”¹³

The criteria for conflict of interest are not set out in the Joint Framework, although the SOSNI recently told a Committee of the UK Parliament that they would be ‘based on the Stormont House Agreement’.¹⁴ The SHA had two relevant provisions. First the SHA Historical Investigations Unit had to adopt a ‘statement’ setting out how its investigations would ensure compliance with ECHR Article 2 and other human rights obligations (which would include provisions on practical independence). Second the SHA had a broader definition of conflict of interest as: *“any matter which might reasonably be expected to—(a) give rise to a conflict of interest, or (b) otherwise affect the person’s ability to carry out his or her duties fairly and impartially.”* The unofficial SHA Model Bill advocated a statutory duty codifying ECHR independence requirements.¹⁵

Legacy Commission – Criminal Investigations function

The Legacy Act provided that ICIR conduct ‘reviews’ into cases and vested significant discretion in the Commissioner for Investigations as to what steps such ‘reviews’ would take.

The Joint Framework sets out that the new Legacy Commission will be tasked with conducting investigations ‘exploring all investigative leads.’ A two stage process is set out whereby an initial ‘case review’ takes place ‘in line with standard UK practice’ and where there are evidential leads a full criminal investigation will take place in line with UK investigative standards.¹⁶ This two stage process appears similar to that envisaged under the SHA. Unlike the SHA there is no express commitment requiring the investigation to meet ECHR standards.

As with the ICIR and SHA the new Legacy Commission’s investigations can lead to prosecutions.

Where there are no evidential leads a fact-finding investigation will produce a family report, which it states with findings on the ‘balance of probability’ threshold. The Joint Framework also commits to maximum permissible disclosure to families (“as much information as possible”) in all cases (which implies, there will be family reports in criminal investigations too). The findings in reports will be produced by judges drawn from a panel (see Inquisitorial mechanism below).¹⁷ The family reports will however be subject to the national security veto (see below).

There are no express measures stated in strengthening the duties to make disclosures to the Legacy Commission. The Joint Framework does not expressly state if the Legacy Commission will deal with Article 3 (torture etc) as well Article 2 (deaths) cases. The ICIR remit goes beyond deaths to cover serious injuries, (the SOSNI can also ask the ICIR to investigate other Troubles-related offences which are not ‘serious.’) In the absence of indication to the contrary it appears the new Commission will have a remit beyond deaths.

¹² Joint Framework, page 4 and paragraph 7.

¹³ Joint Framework, paragraph 7.

¹⁴ Oral evidence: [The Government’s new approach to addressing the legacy of the past in Northern Ireland](#), HC 586, Wednesday 3 September 2025, Q202.

¹⁵ Namely that persons “*carrying out or involved in an investigation have no connection with persons whose behaviour is being investigated or might require to be investigated. Including (a) present and past connections; and (b) both actual connections and connections that might reasonably be perceived or suspected;*”

¹⁶ Joint Framework, paragraph 3.

¹⁷ Joint Framework, paragraph 12.

The Joint Framework will extend the number of bodies who can refer cases to the Legacy Commission, to include the PSNI, Police Ombudsman and DPP.¹⁸

Oversight & police misconduct

The ICIR was only largely accountable to the SOSNI. The Joint Framework provides that the new Legacy Commission will be accountable in the use of police powers to its own Oversight Board, but that also legislation will provide for an independent reviewer to be appointed, and accountability to existing 'UK police conduct bodies'.¹⁹

The Joint Framework also states that the Legacy Commission should refer evidence of 'potential criminality relating to police officers' where it falls outside its remit to the Police Ombudsman.²⁰ It is not clear if this provision is to deal with the declaration of incompatibility made by the Court of Appeal Order in *Dillon* relating to provisions of Section 45 of the Legacy Act which preclude complaints of police misconduct being progressed to misconduct or criminal charges.

Legacy Commission: National Security veto

The most concerning element of the Joint Framework is that both Legacy Commission investigations and its Inquisitorial Mechanism (and presumably also the reestablished ICIR) will still be subject to a national security veto vested in the SOSNI.

Some changes are committed to by the Joint Framework to the existing national security veto in the Legacy Act which limits ICIR disclosure to families. This veto was found to be incompatible with the ECHR in the Court of Appeal in *Dillon*. A finding appealed to the UK Supreme Court by the SOSNI.

The Joint Framework commits to 'tangible changes' to the national security veto over the ICIR to a provision that "is consistent with other established mechanisms and facilitates disclosure of the maximum possible amount of information to families consistent with the requirements of national security and to protect life."²¹ It should be noted that with the exception of the broad ministerial powers of intervention over public inquiries in the Inquiries Act 2005, no other mechanism within the Package of Measures was subject to a ministerial national security veto.

The changes envisaged will involve removing the Legacy Act system for the ICIR whereby information is designated as 'sensitive' due to it originating from the intelligence and security services. The SOSNI will also not be able to issue guidance on how the Legacy Commission should determine what information is 'sensitive'.²² However, there is no envisaged change to narrow the scope of the concept of 'national security' in the context of legacy cases.

The problem with this is it has become clear that the purpose and effect of the national security veto over 'sensitive' information is to conceal which killings within the Northern Ireland conflict attributed to non-state actors, were in practice extrajudicial killings due to the involvement of agents of the state. The veto can also conceal the involvement of state agents in torture and other violations. This is not compatible with the ECHR and other international human rights obligations.

In addition to the existing 'national security veto' over ICIR reports, the SOSNI has also litigated to ask the courts to 'read in' a similar ministerial national security veto over disclosure by Coroner judges in Northern Ireland legacy inquests in the *Sean Brown* and *Thompson* cases (both sectarian murders by loyalist paramilitaries with suspected collusion).

In *Thompson* (where CAJ represented the next-of-kin) the SOSNI judicially reviewed the Coroner to block her from releasing a summary ('gist') of relevant intelligence information. This was shortly after

¹⁸ Joint Framework, paragraph 8.

¹⁹ Joint Framework, paragraph 9.

²⁰ Joint Framework, paragraph 10.

²¹ Joint Framework, page 4.

²² Joint Framework, paragraph 13.

the Coroner in the Sean Brown inquest in a ‘gist’ had revealed that agents of the state were linked to the murder. The SOSNI retrospectively judicially reviewed the Coroner in *Brown*, contending that the Coroner should not have revealed that suspects in the murder were state agents. In the proceedings in *Thompson* disclosure was made of a March 2024 policy statement on the ‘Neither Confirm nor Deny’ national security policy doctrine, issued by the Home Secretary shortly after the Brown inquest. Revealingly the [Home Secretary’s Statement provides that ‘the fact that agents were involved at all’ in an incident should not be disclosed](#).²³ Although the SOSNI judicial review in *Thompson* was rejected by the High Court and Court of Appeal in Northern Ireland it was appealed to the UK Supreme Court by the SOSNI and a ruling is awaited.²⁴

In essence this ‘national security’ doctrine permits the SOSNI to conceal that those involved in a conflict-related killing or other violation attributed to paramilitaries were in fact agents of the state.

ECHR case law on Article 2 ECHR in relation to extra-judicial killings has established that States are liable for deaths where the deceased was ‘*killed by State agents or with their connivance or acquiescence*’.²⁵ The corresponding procedural obligation to ensure an effective official investigation where State agents are involved in deaths must be capable of leading to a (public) determination on matters including the ‘use of force’ by state agents.²⁶ This obligation cannot be complied with if the Legacy Commission or the judiciary cannot disclose the involvement of a state agent ‘at all’ in a death or other violation to the next of kin or in public.

The Joint Framework provides SOSNI will still be the decision maker on withholding material from Legacy Commission reports. There will be a statutory duty on the SOSNI to conduct a balancing exercise on the public interest, this is to draw on provisions of the Inquiries Act 2005.²⁷

Whilst workarounds have been found for ECHR-compliant inquiries the Inquiries Act 2005 per se has itself been long heavily criticised for the high level of undue ministerial control over reports.²⁸

²³ <https://www.irishnews.com/news/northern-ireland/sensitive-british-government-document-suggests-role-of-state-agents-should-be-concealed-DEVKEALZJRAWHJM3BDJT4TACIU/>

²⁴ The [UK Supreme Court heard the Thompson case in June 2025](#). The Secretary of State for Northern Ireland was formally supported in Court by the other UK Government departments overseeing the security and intelligence agencies (Home Office, MI5; Foreign Office, MI6 and Ministry of Defence for military intelligence). Respondents favouring disclosure included the Police Service of Northern Ireland, the Coroner and next of kin (along with the NHRI – the Northern Ireland Human Rights Commission – as intervener). The operationally independent justice and policing bodies in Northern Ireland seeking disclosure of the ‘gist’ and UK Ministers seeking to assert primacy over them has been likened by one [leading media commentator \(former BBC Panorama Journalist John Ware\) as a ‘constitutional crisis’](#)

²⁵ See ECtHR ‘Guide on Article 2 of the European Convention on Human Rights: Right to life (updated 28 February 2025), paragraph 127 citing “*Avşar v. Turkey*, 2001, §§ 413-416; *Khashiyev and Akayeva v. Russia*, 2005, § 147; *Estamirov and Others v. Russia*, 2006, § 114; *Musayeva and Others v. Russia*, 2007, § 155; *Amuyeva and Others v. Russia*, 2010, §§ 83-84; see also *Lapshin v. Azerbaijan*, 2021, § 119, where the applicant survived an attempt to his life while in prison and by contrast *Denizci and Others v. Cyprus*, 2001, § 373; *Buldan v. Turkey*, 2004, § 81; *Nuray Şen v. Turkey* (no. 2), 2004, § 173; *Seyhan v. Turkey*, 2004, § 82 and *Carter v. Russia*, 2021, §§ 170-172).

²⁶ See *Eg see (Armani Da Silva v. the United Kingdom [GC], 2016, § 233)*.

²⁷ Joint Framework, paragraph 13.

²⁸ In 2009 the NIHR raised concerns with the UN that the Inquiries Act 2005 could thwart ‘truly independent’ public inquiries ‘by virtue of an unprecedented subordination of the inquiry process to the control of Government ministers at every stage, even though the actions of the executive may, more often than not, be the very subject of investigation.’ (NIHRC correspondence to UN Human Rights Committee, 24 August 2009.) In 2015 the UN Human Rights Committee, in its Concluding Observations on ‘Accountability for conflict-related violations in Northern Ireland’, continued to urge the UK to reconsider the Inquiries Act 2005 in light of its ‘broad mandate for government ministers to suppress the publication of inquiry reports.’ (UN Doc CCPR/C/GBR/CO/7, Human Rights Committee, [Concluding Observations on UK](#), paragraph 8.)

The Joint Framework provides that the SOSNI may have to give reasons to families for removing material from Legacy Commission reports, but only if the giving of reasons itself does not risk any harm to national security. There will be no merits-based appeal (i.e. whereby a judge could re-take the decision), rather the only appeal option would be akin to judicial review.

Inquests and the new Inquisitorial Mechanism

The Legacy Act closed 38 legacy inquests on the 1 May 2024, 14 of which had not reached findings stage and 24 that had not been assigned to a coroner.²⁹ 18 of the inquests formed part of the Lord Chief Justices original five year plan for legacy inquests. The remaining 20 had been ordered at the request of families by the Attorney General after the original five year plan. The Legacy Act also prohibited the Attorney General from opening any further legacy inquests.

Whilst not within the Legacy Act the ICIR had argued it could emulate inquests within its framework putting forward an 'Enhanced Inquisitorial Proceedings' model.³⁰ CAJ and others had considerable scepticism over this model of emulating inquests, not least as there would be no independent judge, no court, families would not have their own lawyers, or rights to receive disclosure and the Executive branch of Government would be able to re-write the 'judgment' through the 'national security veto.' The Court of Appeal in *Dillon* found the ICIR's model to be incompatible with the ECHR. This was appealed by the SOSNI to the UK Supreme Court.

The Joint Framework commits to removing "the current legislative prohibition on Troubles-related inquests and replace it with new provisions."³¹

The new provisions however will not allow all inquests to automatically proceed.

There are commitments to allow 9 of the inquests which were in progress and halted by the Legacy Act guillotine to proceed (the other 5, including *Brown* and *Thompson*, involved 'sensitive' information.)

The other 24 inquests (20 opened by the NI Attorney General, and four from the five year plan) would be subject to an assessment by the UK Solicitor General who would decide whether the inquest would:

- proceed in the inquest system; or
- instead be dealt with by a new 'Inquisitorial Mechanism' within the Legacy Commission.³²

It is not clear if the powers of the NI Attorney General to open further inquests would be reinstated and if so, would also go through the above procedure.

It is also not clear if other families can request to use the 'Inquisitorial Mechanism' in the Legacy Commission outside of the existing cohort of inquests.

Should coroners determine that an inquest in the system cannot complete due to sensitive information it is also to be referred to the Legacy Commission Inquisitorial Mechanism.³³

The Assessments by the Solicitor General should be taken within 18 months of the commencement of the new legislation. It is clear from the Joint Framework that the primary criteria for placing an inquest outside of the inquest system and into the 'Inquisitorial Mechanism' is the existence of

²⁹ [The Troubles: 'Legacy Act denies victims like me closure' - BBC News](#)

³⁰ [Enhanced Inquisitorial Proceedings: A brief explanation - Independent Commission for Reconciliation & Information Recovery \(icir.independent-inquiry.uk\)](#)

³¹ Joint Framework, page 3.

³² Joint Framework, page 3 and paragraph 19.

³³ Joint Framework, para 18.

‘sensitive’ information.³⁴ In essence the rationale behind the Inquisitorial Mechanism is that it, unlike inquests, it will be able to undertake closed proceedings and be subject to a national security veto.

Unlike the ICIRs pseudo-inquest model the new Inquisitorial Mechanism will be established by statute with a legislative framework providing for judge-led public hearings and legal representation for the next of kin. There will be provisions for closed hearings to consider sensitive information and findings subject to a national security veto. The mechanism will be based on the Inquiries Act 2005.³⁵ Whilst commitments are made on legal representation the Joint Framework does not reference whether families will have the same rights to receive disclosure as is presently the case in inquests.

The presiding judges in the Inquisitorial Mechanisms will be drawn from a panel of serving/retired judges. However, in a reversal of the criminal justice reforms further to the GFA, whereby judges in Northern Ireland are appointed by an independent body – the Northern Ireland Judicial Appointments Commission (NIJAC)³⁶ – Legacy Commission Judges will be appointed by the SOSNI. In doing so the SOSNI will take ‘advice’ from a panel including ‘NI and GB judicial advice’.³⁷ This panel of judges will also produce the family reports for the broader Legacy Commission.

Independent Commission on Information Retrieval (ICIR)

The Joint Framework recommit to the establishment of the cross-border ICIR, a mechanism within the Stormont House Agreement, on which the two governments signed a 2015 implementation treaty.³⁸ The ICIR will be separate and independent from the Legacy Commission.

The ICIR will operate with a similar framework to the Independent Commission on the Location of Victims’ Remains in that it will receive information in the form of ‘protected statements’ which cannot be used in civil or criminal proceedings. The two governments will appoint commissioners to the ICIR.³⁹

The provision of protected statements is not an amnesty, and the Joint Framework states it would not impinge on investigations by the Legacy Commission.⁴⁰ As was the case with the ICIR within the SHA framework there will likely be further detail and discussion on sequencing and firewalling.

The Joint Framework provides that the ICIR will operate for a three year pilot in the first instance (including a one year preparatory phase) and will continue subject to an assessment by both Governments.⁴¹

Memorialisation

Part IV of the Legacy Act dealt with provisions on ‘Memorialising the Troubles’. This related to a number of initiatives, largely under the control of the Secretary of State, to designate persons to take forward a programme of work comprising a major oral history initiative, a memorialisation strategy and academic research. This included statistical analysis of all ICIR reports.

The provisions were critiqued by Professors Anna Bryson and Louise Mallinder who raised concerns that the proposed memorialisation work “was deliberately designed to privilege a particular narrative of the conflict.” Concerns were also raised that the framing of the memorialisation provisions in the bill were driven by “a desire to resurrect a ‘two sectarian tribes’ version of the

³⁴ Joint Framework, para 19.

³⁵ Joint Framework, para. 11.

³⁶ [About NIJAC | Northern Ireland Judicial Appointments Commission](#)

³⁷ Joint Framework, para 12.

³⁸ Joint Framework, para 22.

³⁹ Joint Framework, para 26.

⁴⁰ Joint Framework, para 24.

⁴¹ Joint Framework, para 27.

Troubles.” And that it was “difficult to square such an approach with the international case law that underlines that reconciliation requires all narratives to be heard and respected”.⁴²

The previous Government also linked an official history of the Troubles project to the Legacy Act. At a meeting with Minister Lord Caine with reference to the objectives of this project he stated that the British Government was entitled to put forward its version of history.⁴³ In April 2025 the current UK Government announced it was pressing ahead with the project.⁴⁴

Beyond the aforementioned introductory reference to the importance of statements of acknowledgement the current Joint Framework does not deal with the future of the memorialisation provisions within or linked to the Legacy Act project.

Irish Government Commitments

In addition to the aforementioned funding the Irish Government commits to the establishment of a legacy dedicated unit within An Garda Síochána. This will be a central point of contact for cross-border cooperation on legacy cases.⁴⁵

There is also a commitment to legislate to ensure cooperation by Irish agencies with the Legacy Commission across all its investigations, with an expectation of UK reciprocation.⁴⁶

The unit within An Garda Síochána will also be a central point of contact and coordination in relation to investigations into all unresolved ‘Troubles-related incidents within its jurisdiction and to ensuring that any potential new investigative opportunities are proactively pursued.’ Garda legacy investigations will ‘where possible’ also answer questions and provide a report to the family.⁴⁷

There is no reference to such reports being subject to any ‘national security veto’ (only that it may be subject to not prejudicing an ongoing investigation or prosecution).⁴⁸

Legacy investigations by the An Garda Síochána raises hierarchical and practical independence issues in relation to legacy cases. A joint CAJ- Irish Council of Civil Liberties report in 2024 had recommended instead an independent Historical Investigations Unit (similar to that envisaged in the Stormont House Agreement for Northern Ireland.)⁴⁹ It is also notable that Fiosrú the reformed Office of the Police Ombudsman, came into existence in April 2025 with functions of receiving complaints regarding Gardaí. There is a usual 12 month time limit on complaints but this can be waived by the Ombudsman. The ICCL-CAJ report also recommended the establishment of independent public inquiries and inquests to investigate egregious outstanding historic human rights violations.

CAJ, September 2025

⁴² <https://ohrh.law.ox.ac.uk/reconciliation-and-the-northern-ireland-legacy-act-a-human-rights-perspective-part-2/>

⁴³ <https://www.irishnews.com/news/northern-ireland/critics-question-british-governments-public-history-of-the-troubles-project-YMETU7GZ2ZGANOK5GJSI2WRYVY/>

⁴⁴ [Labour government presses ahead with ‘official history’ of policy towards Northern Ireland during Troubles – The Irish News](#)

⁴⁵ Joint Framework, page 4; para 31.

⁴⁶ Joint Framework, paragraphs 28-30.

⁴⁷ Joint Framework, paras 31-33.

⁴⁸ Joint Framework, para 33.

⁴⁹ ICCL-CAJ Roundtable Discussion Report [POLICING FOR PEACE AND THE COMMITMENT TO ‘REPEAL AND REPLACE’ THE NORTHERN IRELAND LEGACY ACT: HOW SHOULD THE IRISH GOVERNMENT DEAL WITH LEGACY INVESTIGATIONS IN ITS JURISDICTION?](#)