



Northern Ireland Troubles (Legacy and Reconciliation) Act 2023

2023 CHAPTER 41

PART 2

THE INDEPENDENT COMMISSION FOR RECONCILIATION AND INFORMATION RECOVERY

Reviews of deaths and other harmful conduct

9 Requests for reviews of deaths

- (1) A close family member of the deceased may request a review of a death that was caused directly by conduct forming part of the Troubles.
- (2) If there are no close family members of the deceased, any member of the family of the deceased may instead exercise the right to make a request under subsection (1), but only if it is appropriate for that family member to make that request.
- (3) The Secretary of State may request a review of a death that was caused by conduct forming part of the Troubles (whether or not it was caused directly by the conduct).
- (4) The Attorney General for Northern Ireland may request a review of a death that was caused directly by conduct forming part of the Troubles.
- (5) The Advocate General for Northern Ireland may request a review of a death that was caused directly by conduct forming part of the Troubles if section 14(3) of the Coroners Act (Northern Ireland) 1959 applies to the death (inquest on orders of Advocate General if national security involved).
- (6) A request for a review of a death that was caused directly by conduct forming part of the Troubles may be made by any of the following persons—
 - (a) the coroner in Northern Ireland who was responsible for an inquest into that death which has been closed in accordance with section 16A(3) of the Coroners Act (Northern Ireland) 1959;

- (b) the senior coroner in England and Wales who was responsible for conducting an investigation into that death which has been discontinued in accordance with paragraph 1(3) of Schedule 1A to the Coroners and Justice Act 2009;
 - (c) the Chief Coroner of England and Wales, if the Chief Coroner is prohibited by paragraph 2(4) of Schedule 1A to the Coroners and Justice Act 2009 from directing a senior coroner to conduct an investigation into the death;
 - (d) the sheriff in Scotland who was responsible for conducting an inquiry into that death which has been discontinued in accordance with paragraph 1(3) of Schedule A1 to the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2);
 - (e) the procurator fiscal in Scotland who was responsible for conducting an investigation into that death which has been discontinued in accordance with paragraph 1(4)(b) of Schedule A1 to the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016;
 - (f) the Lord Advocate, if the Lord Advocate is prohibited by paragraph 2(a) of Schedule A1 to the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 from exercising functions so as to cause an inquiry to be held into the death.
- (7) It is for the Commissioner for Investigations to decide if it is appropriate for a family member to make a request in accordance with subsection (2).
- (8) A request under this section may not be made after the end of the fifth year of the period of operation of the ICRIR.
- (9) For the purposes of this section, a death was “caused directly by conduct forming part of the Troubles” if—
- (a) the death was wholly caused by physical injuries or physical illness, or a combination of both, that resulted directly from an act of violence or force, and
 - (b) the act of violence or force was conduct forming part of the Troubles.
- (10) In this section—
- “close family member” has the meaning given in Part 1 of Schedule 3;
 - “inquiry” means an inquiry under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016;
 - “investigation” means—
- (a) in relation to a senior coroner in England and Wales or the Chief Coroner of England and Wales, an investigation under Part 1 of the Coroners and Justice Act 2009;
 - (b) in relation to a procurator fiscal, an investigation under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016.

10 Requests for reviews of other harmful conduct forming part of the Troubles

- (1) A person may request a review of other harmful conduct forming part of the Troubles if that conduct caused that person to suffer serious physical or mental harm.
- (2) The Secretary of State may request a review of other harmful conduct forming part of the Troubles (whether or not it caused any person to suffer serious physical or mental harm).
- (3) A request under this section may not be made after the end of the fifth year of the period of operation of the ICRIR.

11 Requests for reviews: general provision

- (1) A person making a request for a review may include in the request particular questions about the death, or other harmful conduct, to which the review will relate.
- (2) The Commissioner for Investigations is to decide—
 - (a) the form and manner in which a request for a review is to be made;
 - (b) the circumstances (if any) in which a request for a review may be changed (including by changing particular questions included in the request) or withdrawn.
- (3) The Commissioner for Investigations may reject a request for a review that is not made in the required form or manner.
- (4) In a case where—
 - (a) the ICRIR is carrying out a review of a death or other harmful conduct (whether following a request under section 9 or 10 or a decision by the ICRIR under section 12), and
 - (b) a request (or subsequent request) is made for a review relating to that death or that other harmful conduct,the Commissioner for Investigations is to decide how that request is to be dealt with.
- (5) The Commissioner for Investigations may (in particular) decide—
 - (a) to reject that request (or subsequent request), or
 - (b) that, in a case where the ICRIR is carrying out the review following a request, the person or persons making the subsequent request are to be treated as if they had joined in the making of the earlier request.
- (6) In a case where—
 - (a) the ICRIR has carried out a review of a death or other harmful conduct (whether following a request under section 9 or 10 or a decision by the ICRIR under section 12), and
 - (b) a request (or subsequent request) is made for a review relating to that death or that other harmful conduct,the Commissioner for Investigations is to decide how that request is to be dealt with.
- (7) In deciding how that request is to be dealt with, the Commissioner for Investigations—
 - (a) must take into account the review that has already been carried out; and
 - (b) in particular, must ensure that the ICRIR does not do anything which duplicates any aspect of that review unless, in the ICRIR's view, the duplication is necessary.
- (8) The Commissioner for Investigations may (in particular) decide to reject that request (or subsequent request).

12 Reviews in connection with requests for immunity from prosecution

- (1) This section applies if a person (P) makes a request under section 19 for the ICRIR to grant P immunity from prosecution.
- (2) The ICRIR may carry out a review of a death caused by conduct forming part of the Troubles if it appears to the Commissioner for Investigations that any relevant conduct by P—

- (a) caused the death, or
 - (b) relates to, or is otherwise connected with, other conduct (by P or another person) that caused the death.
- (3) The ICIR may carry out a review of other harmful conduct forming part of the Troubles if it appears to the Commissioner for Investigations that any relevant conduct by P—
 - (a) caused the physical or mental harm concerned, or
 - (b) relates to, or is otherwise connected with, other conduct (by P or another person) that caused the physical or mental harm concerned.
- (4) For the purposes of this section—
 - (a) “relevant conduct by P” means conduct by P forming part of the Troubles that is relevant to P’s request for immunity from prosecution;
 - (b) relevant conduct by P is to be regarded as connected with other conduct, in particular, if all of that conduct formed part of the same event.

13 Conduct of reviews

- (1) The Commissioner for Investigations must comply with the obligations imposed by the Human Rights Act 1998 when exercising functions under this section.
- (2) The Commissioner for Investigations has operational control over the conduct of reviews by the ICIR, whether they have been—
 - (a) requested under section 9 or 10, or
 - (b) decided on by the ICIR under section 12.
- (3) The following provisions of this section apply to the Commissioner for Investigations in exercising operational control over the conduct of reviews.
- (4) The Commissioner for Investigations must ensure that each review is carried out (but see subsection (10)).
- (5) The Commissioner for Investigations must ensure that each review, whether or not a criminal investigation forms part of the review, looks into all the circumstances of the death or other harmful conduct to which it relates, including any Troubles-related offences (whether serious or not) which relate to, or are otherwise connected with, that death or other harmful conduct.
- (6) The Commissioner for Investigations is to decide how and when different reviews are to be carried out, including by deciding—
 - (a) whether different reviews should be carried out in conjunction with each other;
 - (b) what steps are necessary in carrying out any review.
- (7) In particular, the Commissioner for Investigations is to decide whether a criminal investigation is to form part of a review.
- (8) In deciding what steps are necessary, the Commissioner for Investigations—
 - (a) must take into account any investigation that has previously been carried out by any other person into the death or other harmful conduct to which the review relates; and

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- (b) in particular, must ensure that the ICRIR does not do anything which duplicates any aspect of the previous investigation unless, in the ICRIR’s view, the duplication is necessary.
- (9) In deciding what steps are necessary, the Commissioner for Investigations must, in particular, have regard to the following matters so far as they are relevant—
- (a) any particular questions included in a request for the review (see section 11(1));
 - (b) whether the review will, or is likely to, lead only to the production of a final report;
 - (c) any request made by a person (P) to the ICRIR to grant immunity from prosecution if it appears to the Commissioner for Investigations that any relevant conduct by P—
 - (i) caused the death, or physical or mental harm, to which the review relates, or
 - (ii) relates to, or is otherwise connected with, other conduct (by P or another person) that caused that death or other harmful conduct;
 - (d) whether information obtained through the review will be, or is likely to be, provided to a prosecutor.
- (10) A review is not to be carried out if—
- (a) the Commissioner for Investigations decides, in the case of a request made by a person in accordance with section 9(2), that it is not appropriate for that person to make the request;
 - (b) the Commissioner for Investigations rejects the request in accordance with section 11(3), (5)(a) or (8).
- (11) Subsection (1) does not limit the duty of the Commissioner for Investigations to comply with the obligations imposed by the Human Rights Act 1998 when exercising other functions.
- (12) For the purposes of this section—
- (a) an offence is to be regarded as connected with a death or other harmful conduct, in particular, if the offence formed part of the same event as that death or other harmful conduct;
 - (b) “relevant conduct by P” means conduct by P forming part of the Troubles that is relevant to P’s request for immunity from prosecution.

14 Supply of information

- (1) The Commissioner for Investigations may exercise the powers conferred by subsections (2) and (3) for the purposes of, or in connection with, the exercise of the review function.
- (2) The Commissioner for Investigations may by notice require a person to attend at a time and place stated in the notice—
 - (a) to provide information;
 - (b) to produce any documents in the person’s custody or under the person’s control;
 - (c) to produce any other thing in the person’s custody or under the person’s control for inspection, examination or testing.

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- (3) The Commissioner for Investigations may by notice require a person, within such period as appears to that Commissioner to be reasonable—
- (a) to provide evidence in the form of a written statement;
 - (b) to provide any documents in the person’s custody or under the person’s control;
 - (c) to produce any other thing in the person’s custody or under the person’s control for inspection, examination or testing.
- (4) A notice under this section must—
- (a) explain the possible consequences of not complying with the notice;
 - (b) indicate what the recipient of the notice should do to make a claim under subsection (5).
- (5) A claim by a person that—
- (a) the person is unable to comply with a notice under this section, or
 - (b) it is not reasonable in all the circumstances to require the person to comply with such a notice,
- is to be determined by the Commissioner for Investigations, who may revoke or vary the notice on that ground (or leave it unchanged).
- (6) In deciding whether to revoke or vary a notice on the ground mentioned in subsection (5)(b), the Commissioner for Investigations must consider the public interest in the information in question being obtained, having regard to the likely importance of the information.
- (7) A claim by a relevant authority that the ICRIR—
- (a) would breach section 4(1)(a) or (b) if the person given a notice under subsection (2) or (3) was required to comply with the notice, but
 - (b) would not breach section 4(1)(a) or (b) if a different person nominated by the relevant authority were instead required to comply with that notice,
- is to be determined by the Commissioner for Investigations, who may vary the notice, so as to require the nominated person to comply with it, or revoke the notice (or leave it unchanged).
- (8) For the purposes of this section a thing is under a person’s control if it is in the person’s possession or if the person has a right to possession of it.
- (9) Schedule 4 makes provision about enforcement of notices under this section.

15 Production of reports on the findings of reviews

- (1) This section applies where—
- (a) a review of a death that was caused by conduct forming part of the Troubles, or
 - (b) a review of other harmful conduct forming part of the Troubles,
- has been carried out.
- (2) The Chief Commissioner must produce a final report on the findings of the review in accordance with this section.
- (3) If particular questions were included in the request for a review (see section 11(1)), the final report must include—

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- (a) the ICRIR's response to those questions, if and to the extent that it has been practicable to respond to them in carrying out the review in accordance with section 13;
 - (b) for each question to which it has not been practicable to respond, a statement of that outcome.
- (4) The final report must include a statement of the manner in which the review was carried out.

16 Consultation on reports

- (1) In the case of a review of a death or of other harmful conduct carried out following a request made under section 9 or 10, the Chief Commissioner must, before producing the final report—
- (a) give a draft of the report to the person who requested the review; and
 - (b) allow the person to make representations about the report during the applicable response period.
- (2) In the case of a review of a death carried out following a request made under section 9 or following a decision made by the ICRIR under section 12(2), the Chief Commissioner must, before producing the final report—
- (a) give a draft of the report to—
 - (i) any relevant family members of the person to whose death the review relates,
 - (ii) any relevant family members of any other persons killed in the relevant event, and
 - (iii) any person who suffered serious physical or mental harm in the relevant event or, where such a person has subsequently died, any relevant family members of the person, and
 - (b) allow those persons to make representations about the report during the applicable response period.
- (3) In the case of a review of other harmful conduct carried out following a request made under section 10 or following a decision made by the ICRIR under section 12(3), the Chief Commissioner must, before producing the final report—
- (a) give a draft of the report to—
 - (i) any relevant family members of any persons killed in the relevant event, and
 - (ii) any person who suffered serious physical or mental harm in the relevant event or, where such a person has subsequently died, any relevant family members of the person, and
 - (b) allow those persons to make representations about the report during the applicable response period.
- (4) In the case of any review, if it is proposed to include in the final report material criticising an individual, the Chief Commissioner must, before producing the report—
- (a) give a copy of that material to the individual; and
 - (b) allow the individual to make representations about that material during the applicable response period.

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- (5) In the case of any review, if it is proposed to include in the final report material criticising a public authority, the Chief Commissioner must, before producing the report—
- (a) give a copy of that material to the public authority or to a person who, in the Chief Commissioner’s view, currently has responsibility for the public authority; and
 - (b) allow that public authority or person to make representations about that material during the applicable response period.
- (6) The Chief Commissioner must not produce the final report until after—
- (a) any applicable response period has ended, or
 - (b) all of the applicable response periods have ended (where two or more persons are consulted and those periods end on different days).
- (7) If the Chief Commissioner considers that it would not be in the public interest for material included in a draft of the report to appear in the final report, the Chief Commissioner may exclude that material from the final report.
- (8) The Chief Commissioner must take account of any representations made by a person in accordance with the consultation provisions when the Chief Commissioner is deciding under subsection (7) whether to exclude any material.
- (9) If the Chief Commissioner has consulted a person, this section does not require the Chief Commissioner to give that person a draft of any revised version of the final report or any material included in it.
- (10) If this section requires the Chief Commissioner to give a draft of the final report to two or more persons, this section does not require the Chief Commissioner to give the same draft to all of those persons.
- (11) In this section—
- “applicable response period”, in relation to a person who is consulted, means—
- (a) the period of 30 days beginning with the day on which the draft is given to the person, or
 - (b) if the Chief Commissioner is satisfied that there is good reason to extend the period, such longer period as the Chief Commissioner determines;
- “consultation provisions” means subsections (1) to (5);
- “consulted” means given a draft of a report or other material, and allowed to make representations, in accordance with the consultation provisions;
- “material criticising a public authority” means material which, in the Chief Commissioner’s view, constitutes significant criticism of a public authority (and that material may consist of or include criticism of one or more individuals, whether living or not);
- “relevant family member” has the meaning given in Part 2 of Schedule 3;
- “material criticising an individual” means material which, in the Chief Commissioner’s view, constitutes significant criticism of a living individual who was involved in the conduct forming part of the Troubles, or other harmful conduct forming part of the Troubles, to which a review relates;
- “relevant event”, in relation to the final report on the findings of a review of a death or other harmful conduct, means the event in which that death, or other harmful conduct, occurred.

17 Issuing and publication of reports

- (1) This section applies where the Chief Commissioner produces the final report on the findings of a review in accordance with section 15.
- (2) If the review was carried out following a request made under section 9 or 10, the Chief Commissioner must—
 - (a) give the final report to the person who requested the review, and
 - (b) publish the final report.
- (3) If the review was carried out following a decision by the ICIR under section 12, the Chief Commissioner may publish the final report.
- (4) When deciding whether to publish the final report in such a case, the ICIR must (in particular) take into account the views of—
 - (a) any relevant family members of any person killed in the relevant event, and
 - (b) any person who suffered serious physical or mental harm in the relevant event or, where such a person has subsequently died, any relevant family members of the person.
- (5) The ICIR must take such steps as it considers reasonable to identify, and obtain the views of, the persons referred to in subsection (4)(a) and (b).
- (6) If a final report is not published in such a case, the Chief Commissioner must publish the statement of the manner in which the review was carried out that is included in the final report in accordance with section 15(3).
- (7) It is for the Chief Commissioner to decide the manner in which a final report, or statement of the manner in which a review was carried out, is published.
- (8) The Chief Commissioner may give the designated persons under Part 4 summaries of any final reports which are not published.
- (9) In this section—

“relevant event”, in relation to the final report on the findings of a review of a death or other harmful conduct, means the event in which that death, or other harmful conduct, occurred;

“relevant family member” has the meaning given in Part 2 of Schedule 3.

18 Reports: general provision

- (1) The Chief Commissioner must comply with sections 15 to 17 as soon as is practicable after the review has been carried out.
- (2) But subsection (1) does not apply to—
 - (a) producing under section 15, and giving and publishing under section 17(2) and (3), the final report on the findings of an excepted review, or
 - (b) publishing under section 17(6) the statement of the manner in which an excepted review was carried out.
- (3) For that purpose an “excepted review” is—
 - (a) a review of a death that was caused by conduct forming part of the Troubles, or
 - (b) a review of other harmful conduct forming part of the Troubles,

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if the Commissioner for Investigations refers any of that conduct to a prosecutor under section 25 (the “relevant conduct”).

- (4) Instead, in such a case, the final report is not to be produced and published, or the statement is not to be published, unless and until—
- (a) the prosecutor has made a decision not to prosecute P for any relevant offence, or
 - (b) if the prosecutor has made a decision to prosecute P for any relevant offence or offences, the public prosecution or prosecutions are no longer continuing.
- (5) Section 16 or 17 and this section do not require the Chief Commissioner—
- (a) to give a copy of a draft of a final report, material which it is proposed to include in a final report, or a final report, to any person, or
 - (b) to publish a final report or statement of the manner in which a review was carried out,
- unless (and until) the Chief Commissioner can do so in accordance with sections 4(1) and 30(2).
- (6) Paragraph 8 of Schedule 6 makes provision about—
- (a) other material that must be included in a final report, and
 - (b) circumstances in which a new final report must be produced.
- (7) Paragraph 3(2)(d) and (e) of Schedule 5 (certain circumstances in which a public prosecution is, or is not, continuing) apply for the purposes of this section.
- (8) In this section—
- “P” means the person who carried out the relevant conduct;
 - “relevant offence”, in relation to a referral to a prosecutor under section 25, means—
- (a) a suspected offence notified to the prosecutor under section 25 in connection with the referral, and
 - (b) any other offence which the relevant conduct constitutes.