



Northern  
Ireland  
Office

**SUMMARY OF RESPONSES  
TO CONSULTATION**

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

**JULY 2010**

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## **Foreword**

The document I am publishing here summarises the responses received to the previous Government's consultation on the Consultative Group on the Past's proposals. Supporting Northern Ireland in building a shared future that is not overshadowed by the past remains an important challenge. I am committed to listening to the views of people from across the community in Northern Ireland on the role I can play. I hope that publishing this summary of responses to the consultation demonstrates the transparent and measured approach I intend to take.



**Rt. Hon. Owen Paterson MP**  
**Secretary of State for Northern Ireland**

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

## Introduction

1. In June 2009 the previous Government published a consultation paper entitled *Dealing with the Past in Northern Ireland: The Recommendations of the Consultative Group on the Past*. The consultation sought views on the thirty one recommendations made in the Consultative Group on the Past's Report. This document summarises the responses received.

2. Responses to the consultation were received from a number of individuals and organisations. A list of Respondents is included at Annex A. This document is available on the NIO website: [www.nio.gov.uk](http://www.nio.gov.uk) under *Public Consultation*.

3. You may make additional copies of this response without seeking permission. If you have any concerns or complaints about the consultation process you should contact the Legacy Policy Unit ([legacypolicyunit@nio.x.gsi.gov.uk](mailto:legacypolicyunit@nio.x.gsi.gov.uk))

## Background

1. The independent Consultative Group on the Past was established in June 2007 by the previous Government to consult across the community and make recommendations. The Group was asked to:
  - *Consult across the community on how Northern Ireland society can best approach the legacy of the events of the past 40 years;*
  - *Make recommendations, as appropriate, on any steps that might be taken to support Northern Ireland society in building a shared future that is not overshadowed by events of the past;*
  - *Present a report, which will be published, setting out conclusions to the Secretary of State for Northern Ireland, by summer 2008.*
  
2. The Group was co-chaired by Lord Eames and Denis Bradley. The other group members were Jarlath Burns, Rev. Dr. Lesley Carroll, Professor James Mackey, Willie John McBride, Elaine Moore, and Canon David Porter.
  
3. Following an extensive consultation process, the Group reported on 28<sup>th</sup> January 2009. The Report made 31 recommendations, covering the legacy of the past and reconciliation; victims and survivors; societal issues; processes of justice and information recovery; and remembering. The Report can be downloaded from <http://www.cgpni.org>. The recommendations are covered individually in this document but the main proposals included:
  - The establishment of an independent Legacy Commission to combine processes of reconciliation, justice and information recovery;
  - £12,000 recognition payments to relatives of those killed during the conflict;

- Proposals to tackle societal issues arising from the conflict, including the establishment of a new Reconciliation Forum;
- A series of recommendations to promote remembering including storytelling; a shared memorial and ceremony; and a declaration against violence for political ends.

### **Consultation process**

4. The Secretary of State for Northern Ireland in the previous Government indicated on 25<sup>th</sup> February 2009 that he would not be taking the recognition payments proposal forward. The previous Government formally launched a consultation on the Consultative Group's recommendations on the 24<sup>th</sup> June 2009. The consultation closed on the 2<sup>nd</sup> October 2009.

## **Overview of consultation responses**

5. A total of 246 responses to the consultation were received. Of these, 72 responses were from organisations, parties or professionals such as academics or medical experts (which are collectively referred to as 'organisations' in this document). 174 individuals also made submissions in response to the consultation, the majority of which rejected the Report in its entirety without offering comments on the recommendations. A full list of respondents is attached at Annex A.
6. The Northern Ireland Affairs Committee also produced a report on the proposals, which was published on 16<sup>th</sup> December 2009. Analysis of the Committee's recommendations has consequently been included in this document. The Commission for Victims and Survivors published further advice to this Government on the 30<sup>th</sup> June 2010, which is being considered.
7. The analysis of responses includes a breakdown of how many organisations and individuals supported or opposed specific recommendations, where a clear opinion either way was offered. But the analysis of responses is not a statistical exercise: it would be impossible, for example, to determine how many people each organisation is representing through their response. And the objective of consultations generally is to invite views rather than to conduct a simple statistical survey.
8. The analysis consequently identifies the themes and arguments put forward on each recommendation, including alternative ideas suggested by consultees in each area. There is also a section dealing with the definition of a victim, which was not explicitly covered in the Group's thirty one recommendations but which was raised by a number of respondents. As the consultation was a public exercise, some quotes from respondents have been included to help illustrate the nature of the opinions expressed. Where respondents indicated that they wished their response to remain confidential, that has been respected.

## Summary of responses to the Consultative Group's proposals

### Recommendation 1

*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 were mixed views on this central proposal. Of the organisations that responded to the consultation and gave a clear view on this recommendation, 22 supported the proposal whilst 15 opposed it. 165 of the 174 individuals who responded were against the proposal.

Those in favour of the concept of a Legacy Commission generally welcomed the principles underpinning the idea and the broad objectives of working towards peace and stability in Northern Ireland. On a more specific level there was support for the integrated approach which would combine functions that, in the view of academic Dr Patricia Lundy, were currently “piecemeal and fragmented”. The Alliance Party expressed the view that the Legacy Commission should be at the centre of future structures.

Consultees who opposed the Legacy Commission did so for a variety of different reasons. The potential for the Commission to focus disproportionately on state forces was commonly cited by those who rejected the proposal. The Ulster Unionist Party (UUP), for example, described the proposal as a “one-sided truth commission”. Many respondents also felt that combining the justice process with information and reconciliation functions would undermine the pursuit of justice. The Democratic Unionist Party (DUP) noted that justice is “integral to our constitution” whilst the Traditional Unionist Voice (TUV) argued that the Commission would be likely to “become a vehicle which will prevent innocent families having their day in court”.



Sinn Fein argued against the proposed Commission, and instead called for an “Independent International Truth Commission” to be set up and funded by an external body such as the United Nations. A number of organisations stressed the need for independence, and felt that a Legacy Commission as proposed would not be sufficiently independent. Those opposing the proposal from this perspective argued that, far from a Commission focusing disproportionately on state forces, the result would be, in the words of Relatives for Justice, “patterns of abuse” by the state being “suppressed in the wider interests of ‘reconciliation’ and ‘moving society forward’”.

On a more structural level, a number of submissions saw the proposed Commission as representing a bureaucratic ‘top-down’ approach to dealing with the past. The Northern Ireland Affairs Committee (NIAC) report reflected a theme identified by many correspondents with its observation that “there is a danger that Northern Ireland could become overburdened by bodies addressing the Troubles.” The Eastern Trauma Advisory Panel represented the concerns of many voluntary groups with its observation that some “fear that they will be subsumed or rolled up in the machinery of the Legacy Commission or that their funding might dry up”.

A range of other alternatives to the Legacy Commission were also proposed. Some respondents focused on the need to maintain existing structures but bolster their funding. The Social Democratic and Labour Party (SDLP) proposed a “reworking of current arrangements” to include merging the Historical Enquiries Team and Police Ombudsman in an independent body, and a remodelled Community Relations Council which would have responsibility for the proposed Victims and Survivors Service. One possibility suggested by both the Police Service for Northern Ireland (PSNI) and the Rural Community Network was for a stand-alone International Commissioner to be created without a full supporting Commission.

## Recommendation 2

*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 societal issues relating to the conflict.*

Of the organisations that responded to the consultation and gave a clear view on this recommendation, 15 supported the proposal whilst 14 opposed it. 167 of the 174 individuals who responded rejected the proposal.

Those in favour of the Reconciliation Forum agreed with the importance of reconciliation as an objective; and the need to tackle societal issues as part of dealing with the past. Some highlighted the organisational advantages of having a mechanism which, as British Irish Rights Watch noted, “allows for dialogue with victims and with civil society.” The Commission for Victims and Survivors for Northern Ireland (CVSNI) noted the benefits of bringing together agencies to “cross-reference their work” and to consider the additional dimension of “peace and reconciliation.”

Many of those who supported the principles behind the recommendation commented on the proposed structure of the body and its relationship with existing organisations. Some respondents did not agree with the Commission for Victims and Survivors Northern Ireland having a lead role given the wider societal issues the Forum would be tackling. The Community Foundation for Northern Ireland, amongst others, suggested that “the Community Relations Council would be a more appropriate convenor of any such forum”. Many respondents also pointed to the potential for, in the words of the Community Relations Council, “overlap and duplication” with the work carried out by existing bodies.

Concerns over the relationship of the Forum with existing programmes of work led a number of respondents to reject the proposal. Other consultees opposed the concept of a liaising Forum on the basis of their opposition to the Legacy Commission.

### Recommendation 3

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

Of the organisations who responded to this proposal, 12 opposed the recommendation, whilst 7 were in support. 168 of the 174 individuals who responded rejected the proposal.

Many respondents opposed this recommendation because they objected to the bursary being given to the proposed Legacy Commission. Most felt that the bursary should instead be awarded to existing voluntary or statutory organisations. The Correymeela Community, for example, stated that they were “particularly concerned about the likelihood of duplication and waste and feel that such money would be much better spent on existing institutions such as the Community Relations Council (CRC) and the CVSNI.”

Those who supported the proposal welcomed the investment in societal issues that the bursary would represent. Forthspring Inter-Community group suggested that “the fund should be seen as a strategic intervention to make an additional and decisive shift in combating sectarianism and promoting reconciliation.” Respondents supporting the proposal tended to specify that the bursary provide a supplementary source of finance as opposed to replacing existing sources of funding.

Some consultees focused comments on the level and source of the bursary. Many respondents were unsure as to how the £100 million figure for the bursary had been determined. The Progressive Unionist Party (PUP), for example, reflected a common theme when they noted that “the quoted £100 million seems a somewhat arbitrary figure and we are unclear as to how this figure was arrived at.” The then Northern Ireland Affairs Committee commented on the source of the funding and stipulated that “any significant additional funding should be voted by the Northern Ireland Assembly.”

#### Recommendation 4

*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 payment of £12,000.*

The controversial nature of this recommendation was reflected in the responses to the consultation. Most organisations who responded rejected the proposal, with 20 opposing the recommendation and 8 supporting it. 169 of the 174 individuals who responded also rejected the proposal.

The most common reason given by respondents for opposing the recommendation was the potential for recognition payments to be awarded to the relatives of paramilitaries killed during the Troubles. For many respondents, this suggested an 'equivalence' between different deaths during the Troubles which was unacceptable to them. The UUP, for example, stated that the suggestion that deaths of paramilitaries "should be 'recognised' in a manner equivalent to the deaths of civilians and security force personnel rightly provoked outrage across our community and across the political spectrum."

Other consultees cited different reasons for opposing the recommendation. Some felt that the recommendation was simply too divisive; others that financial payments were not the best means to provide recognition to victims. The Alliance Party noted that "not every victim is interested in financial compensation" and the Ulster Special Constabulary Association (USCA) felt that "financial inducements" were "a crude and insensitive way to attempt to deal with the suffering of families."

Some respondents focused their comments on the detail of the proposal. A particular issue raised by several respondents was the exclusion of injured people from the recognition payments. Others pointed to alternative categories of victim who might be excluded, with British Irish Rights Watch

noting their “concern that cohabitees and fiancé(e)s do not appear in the list of those who can receive payments.”

Those who supported the proposal welcomed the principle of recognising the suffering and needs of victims through financial payments. Many of those supporting the recommendation argued that it should remain open to potential recipients to decide whether to accept the payment. Firinne, for example, “felt that it was up to individuals to decide if this was something of comfort to them or not”. Sinn Fein proposed that a facility should be established to “enable relatives should they choose, to donate their ‘recognition payment’ to a victims and survivors group or a charity of their choice.”

Many respondents noted that the media reaction to the proposal, and the previous Government’s response to the issue, did not reflect the range of opinion in Northern Ireland. The PUP, for example, pointed to the “the many unheard voices within the debate”, whilst the Committee on the Administration of Justice (CAJ) thought the response to the proposal was based on “media hype and political over-reaction.” Other respondents agreed with the Northern Ireland Affairs Committee’s view that it was right to set aside the recognition payment proposal to “facilitate discussion” of the other proposals.

A range of alternative proposals were put forward. Some respondents felt that recognition payments should be based on a different definition of a victim. Other respondents proposed acknowledging the suffering and needs of victims as an alternative to financial recognition. The SDLP suggested that the Victims Forum needed “space and opportunity to develop” and could address issues around recognition payments.

## Recommendations 5 and 6 – Services for Victims

*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.*

*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.*

Of the organisations who responded to these proposals, 18 supported recommendation 5 whilst 8 opposed it; with 13 in favour of recommendation 6 and 12 opposing it. Of the 174 individuals who responded, 165 opposed both recommendations.

Those who supported the recommendation emphasised the importance of making provision for the needs of victims as part of the process of dealing with the past. The CAJ, for example, felt that “the state has an obligation to respond to the needs of victims.” Healthcare was highlighted as a particularly crucial issue by many respondents. Responses pointed both to the immediate and pressing needs of, for example, those injured during the conflict, and the longer-term healthcare issues that would also need to be addressed. The Southern Trauma Advisory Panel, for example, highlighted “the long-term healthcare needs of individuals and families resulting from the intergenerational impact of trauma.”

Compensation was the other main issue highlighted by many respondents. The CVSNI noted that the “perceived inadequacies of compensation arrangements for victims, particularly in the early days of the conflict, are brought to the Commission’s attention on an ongoing basis.” The Ulster Special Constabulary Association, however, warned against raising expectations in relation to compensation. They noted that “it is wrong to build up false hopes amongst the community in this regard.”

Many respondents commented on the structural issues associated with these proposals and victims' services more generally. In relation to healthcare provision, in particular, a number of respondents placed the emphasis on existing statutory agencies remaining in the lead. The Community Relations Council, for example, felt that the "Department of Health should be dealing with issues such as trauma, suicide and addiction already." The RUC George Cross Foundation agreed that "it does not take the creation of another body to ensure the delivery of services."

A number of respondents opposed the proposals on the basis of the roles identified for the CVSNI and Reconciliation Forum. South Armagh/North Armagh Victims Encouraging Recognition (SAVER/NAVER), for example, felt that the CVSNI "have a large enough work plan already" and "do not need intrusion from another body." Some respondents rejected Recommendation 6 solely on the basis of their opposition to the Reconciliation Forum.

Several alternative proposals were also put forward. The Northern Ireland Affairs Committee recommended that the Office of the First Minister and Deputy First Minister (OFMDFM) establish a fund to provide greater financial support and improve service provision to those affected by the Troubles. The Committee recommended that the fund "be operated on the basis of criteria which command cross-community support." Others proposed distributing funding to existing voluntary organisations rather than giving central organisations a role. One WAVE member stated that "instead of trying to streamline victims services into some kind of quango supposedly to make them more efficient – they should say, hold on, these people are doing really good front line work, let's give them the resources."

## Recommendation 7

*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.*

Of the organisations who responded to this proposal, 17 supported the recommendation, whilst 12 opposed it. Of the 174 individuals who responded, 165 opposed the recommendation.

Those who supported the proposal welcomed the perspective and experience an international figure would be able to bring to the role of Chair. The Falls Community Council referred to the “considerable expertise internationally”, including those who have worked on truth commissions in other countries. The CAJ reflected many of the comments welcoming the proposal by noting that an international figure could “bring a freshness of approach and an independence of spirit” to the role.

Some respondents who opposed the proposal did so because of their opposition to the Legacy Commission, whilst others objected to the stipulation that the Chair should be an international figure. The Northern Ireland Affairs Committee concluded that a local figurehead was preferable. The Committee noted that Northern Ireland being seen to run its own institutions is “vital in the rebuilding of a sense of normality.”

A number of respondents gave views on the process for appointing the Commissioners and their respective roles. Some respondents called for clarity and transparency in the appointment of any Commissioners. Relatives for Justice, for example, proposed that the “British and Irish governments should request, from as wide a pool as possible, potential candidates” and should engage with the UN Office of the High Commissioner for Human Rights (OHCHR). Other respondents emphasised the need for a clear demarcation between the different roles allocated to the three Commissioners.



## Recommendation 8

*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*

Of the organisations who responded to this proposal, 15 supported the recommendation, whilst 15 were opposed. 165 of the 174 individuals who responded were against the proposal.

Those who supported the proposed mandate felt that these strands reflected the issues which any Legacy Commission would need to cover. There was support for the idea of a single body incorporating these functions, with the Police Ombudsman, for example, describing the approach as “a horizontal filter that moves individuals and society through the various stages (if they wish to do so).” Some respondents who did not agree with the Legacy Commission as proposed nonetheless approved the mandate, with Relatives for Justice stating that the Group had “correctly identified areas of work that would definitely be required for examination within a truth commission”.

Amongst those who did not agree with the proposal, some respondents rejected the recommendation on the grounds of their opposition to the Legacy Commission. Others focused on the proposed mandate, with some consultees arguing that a broader mandate was required.

A range of proposals were put forward by those who suggested a wider mandate for the Commission. The need to include an analysis of the causes of the conflict was cited by a number of consultees. Sinn Fein stated that a “wider truth recovery process” was needed “to investigate, and document events in a broader framework of the causes, nature, context, and

consequences of conflict.” A number of respondents felt the mandate should have a specific emphasis on socio-economic and gender issues.

Other respondents felt that the proposed mandate was too wide and unmanageable for any Commission. The resource implications of the mandate were cited, with the Community Foundation for Northern Ireland noting their “concern that the elaboration of the four elements of the mandate might overly stretch the resources of the Legacy Commission.” Others pointed to the potential for the mandate to duplicate work already being carried out by existing bodies. The CVSNI felt that “there is a need to augment our capacity for dealing with the legacy of the past without undermining existing institutional ability.”

A number of respondents put forward ideas for a more limited mandate for the Legacy Commission. Some suggested that the reconciliation and societal functions should not come within the remit of the Commission. Professor Bill Rolston, for example, proposed a “more streamlined body with a narrower purpose” which would focus on the past and leave societal issues to be tackled by existing authorities and organisations. Others proposed restricting the Commission to information recovery and thematic investigations rather than investigations into past cases. The Northern Ireland Human Rights Commission (NIHRC) noted that it “is widely recognised that truth commissions are more suited to addressing the legacy of sustained conflict, than merely the normal peacetime packages for investigating conflict-related deaths”.

## Recommendation 9

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

Of the organisations who responded to this proposal, 20 opposed the recommendation, whilst 9 supported it. 158 of the 174 individuals who responded were against the proposal.

Many respondents rejected this recommendation on the grounds that five years represented an arbitrary end point for dealing with the past. The Alliance Party, for example, felt that “there is no merit in imposing an artificial cut-off point on people’s need for the truth or for justice.”

Other consultees raised the possibility that a five year timeframe could have the effect of excluding certain victims who might only come forward at a later date. Dr Catherine O’Rourke, for example, suggested that the timeframe could have the effect of excluding women. She noted that “there is substantial evidence that women take longer than men to come forward to report experiences of violence, in particular in cases involving sexual violence.”

Those who supported the proposed five year mandate emphasised the benefits of having a time limit applied to mechanisms dealing with the past. NIAC, for example, supported “the idea of a time limited mandate in order to prevent such a body from running indefinitely and prolonging the effects of the past by so doing.” Others noted the practical benefits of having a timeframe, with the Northern Ireland Centre for Trauma and Transformation citing the value of the Commission having a “life expectancy within which to plan its activities”

Some felt that there was value in establishing a timeframe but that five years was an unrealistically short period. The Police Ombudsman for Northern Ireland, for example, noted his agreement with the “finite time concept” but did not feel that the proposed work of the Legacy Commission could be “practically done in five years.”

## Recommendation 10

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

Of the organisations who responded to this proposal, 19 supported the recommendation, whilst 7 opposed it. 163 of the 174 individuals who responded were against the proposal.

A number of respondents who supported the proposal cited the importance of the involvement of OFMDFM, particularly given that some recommendations covered devolved issues such as healthcare. Some respondents, such as Sinn Féin, sought more clarity on the proposed role for OFMDFM. Other respondents had different qualifications, with the Alliance Party, for example, noting that the involvement of OFMDFM would risk an “over-politicisation of the process” but proposing that the British Government should “emphasise that the Irish Government is a joint partner on the way forward”.

Those who did not support the recommendation tended to do so on the grounds that they opposed the Legacy Commission. Some respondents proposed joint working between the respective authorities even in the absence of the implementation of the Commission. NIAC suggested “there is scope for collaboration between the United Kingdom and the Republic of Ireland” even without the Legacy Commission going ahead as proposed.

A number of alternative proposals were put forward. Several consultees suggested an oversight commissioner to supervise implementation. British Irish Rights Watch felt this would help “ensure that this issue is not allowed to fall through the political cracks”. Relatives for Justice proposed an independent process overseen by “reputable international figures”, suggesting that “any involvement of the Assembly or Executive will simply result in a veto and log-jam.” The SDLP, in contrast, suggested a panel of Assembly party leaders “to whom structures for addressing the past should have a general line of accountability.”

## Recommendations 11, 12, 13 and 14 – 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.*

*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.*

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

*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.*

Of the organisations that responded to these proposals, 21 supported recommendation 11 whilst 6 opposed it; 14 were in favour of recommendation 12 whilst 11 opposed it; 16 supported recommendation 13 whilst 10 opposed it; and 16 agreed with recommendation 14 whilst 11 opposed it. 160 of the 174 individuals who responded opposed recommendation 11, whilst 166 of the 174 individuals who responded were against the other recommendations.

Many respondents felt that tackling societal issues arising from the conflict was vital to securing a successful and peaceful future for Northern Ireland. As the Northern Ireland Council for Integrated Education noted, bringing communities in Northern Ireland together is necessary to ensure “a sustained peace and a society in which all our young people can grow up to be confident about their own identity and positively appreciate the other traditions with whom they share this country”.

A number of respondents made detailed comments on the specific societal issues highlighted in the recommendations. The importance of working with young people was raised by many consultees. Some pointed to the importance of supporting existing projects working with young people, with the Community Foundation for Northern Ireland, for example, noting they were “acutely conscious of a range of current opportunities to encourage young people to examine both the past and the potential future.” The proposal that exiles be helped to return also received strong support from some consultees. The Alliance Party, for example, stated explicitly that “those who have been exiled need to have the threats against them lifted, and be allowed to return to their homes in safety, if that is what they wish to do.”

Some respondents felt that socio-economic factors had received insufficient emphasis in these recommendations. In particular, the effect high levels of deprivation had in fuelling and exacerbating the conflict was highlighted. The CAJ, for example, felt that “genuinely addressing the inequalities that exist in this society, many of which stem from the conflict, will lead to greater reconciliation.”

A number of respondents also criticised these recommendations, and the Report as a whole, for not considering gender issues. Consultees raised the specific effects of the conflict on women, including higher rates of domestic violence and abuse, and the tendency for women to now have a specific and separate role in dealing with the past. Dr Catherine O’Rourke, for example, noted that “women deal with the (private) material consequences of the conflict (such as trauma, poverty, lack of education and training) deemed to be ‘apolitical’”. There was support for gender issues being considered separately by the Commission, with the Women’s Support Network noting that a “separate theme dealing specifically with women would send out a strong message that the specific role and disadvantage faced by women is acknowledged”.

A range of other societal issues not explicitly mentioned in the recommendation were highlighted by respondents. Tackling continuing paramilitary influence was raised, with the Alliance Party citing “the stranglehold that paramilitary organisations exert over certain communities”. Others pointed to the need to consider infrastructure issues, with *Healing Through Remembering* proposing “a review of physical installations in towns and cities which potentially increase segregation of attitudes and communities.” Bailieborough, Ballinaglera and Boho Women’s Groups proposed a wider consideration of “today’s problems” by the Commission, such as “drugs and alcohol abuse, debt, prostitution, child abuse, and human trafficking.”

Some respondents commented specifically on the value of dialogue in promoting reconciliation. The position of WAVE members was that there was “little support for victim-perpetrator reconciliation except on a strictly individual and voluntary basis”. The Tim Parry Johnathan Ball Foundation did, however, promote reconciliation based on direct dialogue, noting that “we have brought former British soldiers to Northern Ireland for dialogue purposes and we have seen the positive impact of this on the communities in Northern Ireland, and equally mutual benefit for those who formerly patrolled the streets.”

Those who did not support these recommendations tended to oppose the structures and bodies suggested for tackling the societal issues. The UUP, for example, agreed with the need to tackle such societal issues but maintained that the “long-delayed and as yet undelivered CSI (Cohesion, Sharing and Integration) strategy and the work of the CRC (Community Relations Council) should be the main means of addressing this.” A number of respondents stressed the potential for the Legacy Commission or Reconciliation Forum to, in the words of the Northern Ireland Retired Police Officer’s Association (NIRPOA), “duplicate or even undermine the work of existing bodies”.

## Recommendation 15

*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.*

Of the organisations that responded to this proposal, 20 supported the recommendation, whilst 11 opposed it. 165 of the 174 individuals who responded were against the proposal.

Many respondents who supported this proposal emphasised the importance of the role the Churches in Northern Ireland in promoting a non-sectarian future. The Methodist Church in Ireland noted that they took “this challenge very seriously” and highlighted the “need to spell out what Christian reconciliation looks like.” The Church of Ireland Working Group’s response outlined the significant amount of work they had already undertaken in this area and noted that it is “ready to make an ongoing contribution”. The Peacemaking Group of the Belmont Presbyterian Church and the Quakers were also strongly supportive of the Churches engaging on these issues.

A number of respondents commented specifically on the reference to education in the proposal. The Northern Ireland Council for Integrated Education noted the importance of integrated education and the need for joint church schools. They felt that “it is time that different models of sharing, as suggested in the Bain Report, were set up as pilots in different towns”. Others, however, had a different emphasis, stressing that educational policy must be based on considerations such as parental choice.

Most consultees who opposed the proposal did so because they did not agree with the role suggested for the Legacy Commission. Some consultees, such as Corpus Christi Counselling, rejected the recommendation because it related only to the Christian Churches. As a result, they felt the proposal had the potential to “exclude minorities from this issue”.



## Recommendation 16

*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.*

Of the organisations who responded to this proposal, 17 supported the recommendation, whilst 11 opposed it. 163 of the 174 individuals who responded were against the proposal.

Many of the respondents who supported this recommendation stressed the difficulties those with conflict related convictions were facing and emphasised the necessity of ending discrimination. Sinn Fein noted that “many former political prisoners have made a significant contribution to building the peace process.” There was support for the idea of making statutory provision, with the PUP, for example, stating that “in order for real progress to be made a change in law will be required.” The CAJ stipulated that the provisions in employment law relating to an individual’s views on the use of violence for political ends would need to be removed or refined.

A number of consultees strongly opposed the recommendation. The TUV response stated that the Quigley-Hamilton guidance perpetuated the “IRA myth that there is a difference between terrorism and “ordinary” crime.” The USCA noted that “this would be the first step in an amnesty process and is unacceptable to the innocent victims of terrorism in Northern Ireland.” Some respondents representing the nationalist community, such as the SDLP, also opposed the recommendation. The SDLP felt that such a specific recommendation, in the context of the rest of the report, was “incongruous”.

Other respondents criticised the recommendation as not going far enough to eliminate discrimination. *Coiste* felt that the proposal would mean the “continuing marginalisation of the political ex-prisoner community” and stated that “the only way the issue can be resolved is by expunging all prison records.”

## Recommendations 17 and 18 – Historical Investigations

*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.*

*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.*

Of the organisations who responded to this proposal, 14 supported recommendation 17 whilst 14 opposed it; with 12 supporting recommendation 18 whilst 13 opposed it. 165 of the 174 individuals who responded were against both proposals.

Respondents who opposed the proposal did so for a range of different reasons. Some respondents felt this proposal could be detrimental to the pursuit of justice. The NIRPOA cited their concerns that the new Unit would operate outside the wider criminal justice system and noted that “the investigation of crime is a matter for the police”. For others, the proposed Unit would be too closely connected to the criminal justice system and was consequently rejected on the basis of its lack of independence.

A number of respondents highlighted practical and logistical concerns about the recommendation. NIAC cited the “complex and costly” logistics of combining the Historical Enquiries Team (HET) and Police Ombudsman's functions. Others pointed to concerns over the timescales for establishing the new Unit. The Northern Ireland Human Rights Commission (NIHRC) noted that to “recruit and train large numbers of new investigators with the equivalence of police powers, and with policing-level investigative skills and standards, is likely to require considerable time.” The Police Service for Northern Ireland (PSNI), whilst noting that it was “not precious over the

ownership of the HET”, outlined a number of logistical and cost issues to consider if the HET was removed from PSNI structures.

Those who supported the proposal cited a number of potential benefits of the new Review and Investigations Unit. The Police Ombudsman for Northern Ireland (PONI) summed up the benefits as “the rationalization of family and societal expectations”; “expedited outcomes”; “an improvement in compliance with Article 2 obligations”; “the movement of civil society through the investigation, information recovery and reconciliation phases for an inclusive outcome”; and “a more efficient and effective use of existing HET and PONI resources”.

Some respondents focused on the detail of the proposal. The issue of the staffing of the new Unit was raised by a number of respondents. Sinn Fein noted that staff of the new Unit would “largely be drawn from personnel from a police background including, as is the case with the HET, former RUC Special Branch who self-evidently are partisan.” Several respondents focused on the need for the Unit to draw on, in the words of Relatives for Justice, “other successful experiences that involved a multidisciplinary approach.”

A number of respondents gave views on how the unit should deal with cases that had already been considered by the HET or Police Ombudsman. Some felt that the new Unit should review all past cases to ensure equitable treatment for victims, with British Irish Rights Watch proposing “that four teams be set up, to deal with each decade from the 1970s (to include 1969) to the 2000s.” Others proposed different approaches, with the CAJ for example suggesting that the “opinions of families should be taken into consideration” and the Police Ombudsman proposing that “unless new evidence is available then no new investigation is conducted” on cases which have already been reviewed by the HET or Ombudsman.

A range of alternative proposals were put forward in submissions to the consultation. Some respondents focused on the need to consolidate the role of the HET, with the DUP arguing for the “continued funding and adequate

resourcing of the Historical Enquiries Team.” The Alliance Party raised the possibility that the HET could “assume the responsibility for the pre-1998 investigations that are currently the responsibility of the Police Ombudsman.”

The CVSNI suggested that the scope of the new unit be broadened to include the investigation of “cases resulting in serious injury”. Along with several other respondents, they also raised the issue of where the responsibility for prosecution should lay in past cases. A number of respondents were critical of the Public Prosecution Service for Northern Ireland’s (PPS’s) role in relation to past cases. Sinn Fein cited the Council of Europe’s Commissioner for Human Rights statement that “co-operation between police investigators and prosecution lawyers may tarnish the independence of prosecutors when working on cases against police officers.” Relatives for Justice proposed that a “Special Prosecutor” be appointed to head an independent prosecution unit.

## Recommendations 19 and 20 – Information Recovery and Thematic Investigations

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.*

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.*

Of the organisations who responded to this proposal, 13 supported recommendation 19 whilst 14 opposed it; with 13 supporting recommendation 20 and 15 opposing it. 165 of the 174 individuals who responded were against both proposals.

A range of different arguments were put forward by those who opposed the recommendations. Some respondents rejected the Group’s concept of information recovery and thematic examination, with the TUV, for example, seeing this as an attempt “to move away from a pursuit of justice towards an information recovery process.” The Ulster Special Constabulary Association felt that uncovering new information could be detrimental to victims, suggesting that “in many cases relatives are not aware that other information exists and the knowledge of it would cause more hurt”.

Some respondents focused comments on whether particular groups or individuals would engage with the Legacy Commission. The UUP reflected concerns over the unwillingness of paramilitaries to co-operate with the Commission with its statement that the party “is totally unconvinced that a Legacy Commission would have the necessary co-operation from the

members of terrorist and paramilitary organisations”. Others cited concerns over whether members of the security forces could be compelled to provide information to the Commission. These consultees pointed to what Relatives for Justice described as the “the numerous constraints and caveats” within the proposals, such as thematic hearings taking place in private and exemptions from information disclosure on grounds of national security. Sinn Fein noted that “there is no confidence in the nationalist community or in some sections of the unionist opinion that the British Government would disclose such materials in the absence of clear and transparent requirements.”

A number of respondents opposed other aspects of the proposals. Some focused on the recommendation that statements given for information recovery purposes, or in thematic hearings, could not be used in criminal proceedings. The Northern Ireland Terrorist Victims Together (NITVT) felt that this idea “facilitates an amnesty”. Others felt that the proposals could lead to a disproportionate focus on the actions of the security forces, with the DUP suggesting that thematic hearings in private “could lead to a whole series of new miscarriages of justice”.

Several respondents assessed the proposals for protected statements and private hearings against legal human rights requirements. The SDLP, for example, stressed that “with the experience of abuse of rights in the past it should be self-evident that the protection of rights is a non-negotiable feature of the future.” The NIHRC advised that “the proposed system of gathering testimony through protected statements, with no opportunity for cross-examination of witnesses other than by the Legacy Commission itself, omits due process protections and presents problems around the integrity of evidence.” The CAJ focused particularly on the need to involve the victims’ families, noting that it “is a procedural requirement of Article 2 of the ECHR to involve families in processes that involve the death of their relative.”

There were mixed views on the separation of information recovery and thematic reviews from the investigation process. The PSNI stated that “investigation and information recovery are inextricably linked” and that

thematic examinations “are informed by trends identified during individual investigations.” Others felt that current experience suggested that separating information recovery from investigations would be beneficial. Dr Patricia Lundy, for example, felt that reviewing all cases through an evidential investigatory prism “has a delimiting effect in the pursuit of information recovery.”

Those who supported the proposals tended to emphasise both the importance of information recovery for families, and the benefit of thematic examinations to society as a whole. Thematic examinations in particular were cited by several respondents as consistent with the best practice in international truth commissions. Dr Patricia Lundy, for example, noted that thematic examinations “would broaden the scope of information recovery by examining issues of social concern and focus on institutional responsibility.” These examinations were seen by some consultees as the mechanism by which, in the words of the Community Foundation for Northern Ireland, “lessons can be drawn for the future.”

There was also some support for the architecture and procedures proposed by the Group. Professor Bill Rolston, for example, felt that the use of protected statements was “an imaginative suggestion” which “steers a careful course between the situation where (as in South Africa) many witnesses, especially the more powerful ones, seemed to be struck down with terminal amnesia when called on to testify, and that where (as in Chile) a blanket amnesty was given.” Similarly private hearings were welcomed by some as providing the necessary space to encourage disclosure away from what the PUP described as “the voyeurism of the media and opportunistic exploitation by politicians”.

Alternative proposals suggested by respondents ranged from different processes, to specific suggestions on information disclosure in particular cases. Sinn Fein, along with several other groups, proposed a broader “truth recovery” process than that envisaged by the Group. Others felt that the balance in the Group’s proposals between protecting individuals and disclosure needed to be adjusted to ensure greater transparency. Several specific cases were raised, with Relatives for Justice, along with several other

consultees, calling on the British Government to “announce their intention to publish the Stalker/Sampson and Stevens Reports”

### Recommendation 21

*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.*

Of the organisations who responded to this proposal, 10 supported the recommendation, whilst 15 opposed it. 165 of the 174 individuals who responded were against the proposal.

Those who supported the recommendation that there be no new public inquiries tended to be critical of the experience to date of inquiries into Northern Ireland’s past. The Northern Ireland Retired Police Officer’s Association (NIRPOA), for example, felt that public inquiries were “partisan, pointless, costly, time-consuming and divisive”. Criticism of the expense of public inquiries was frequently raised by consultees. Others focused their criticism on the ability of inquiries to help reconcile society in Northern Ireland with its past. The UUP noted that “public inquiries into pre-1998 events have made no contribution to reconciliation and stability in Northern Ireland, nor have they provided a means of engaging with the Past in an equitable manner.”

Some respondents agreed with many of these criticisms of the public inquiries currently underway but felt that inquiries should not be ruled out as a future option. SAVER/NAVER, for example, noted that “there may be a need for Public Enquiries in the future but to date those carried out have been hugely expensive and haven’t actually met their objectives.”

A number of those who opposed the proposal highlighted the potential benefits of public inquiries and outlined the value of the current inquiries. British Irish Rights Watch, for example, argued that the Group’s position on



current inquiries failed to “recognise the emblematic nature of these inquiries in the absence of any other available remedy, the wholesale failures on the part of public authorities which these inquiries address, or the significance of these inquiries for many other families apart from those directly affected.”

There was strong opposition from some respondents to the recommendation regarding the Finucane Inquiry. Sinn Fein described the recommendation as “wholly unacceptable” whilst the SDLP criticised the Group’s approach of handing “responsibility to London on Finucane.” A number of respondents argued that the commitment to a Finucane Inquiry was based on past political agreements and so should not be incorporated within the Legacy Commission’s investigations. The Falls Community Council, for example, stated that “the establishment of a Legacy Commission should not undermine previous agreements.”

Some respondents took a balanced approach to public inquiries, recognising their value but also noting some of the disadvantages. The Northern Ireland Affairs Committee suggested that “such lengthy investigations are not necessarily conducive to promoting reconciliation” but that “the continuing demand for a mechanism to pursue investigation cannot be ignored.” The Committee suggested that once the current investigations and inquiries into the past were completed, and “if demand still exists”, the Legacy Commission could pursue thematic investigations as an alternative to inquiries.

## Recommendation 22

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

Of the organisations who responded to this proposal, 15 supported the recommendation, whilst 6 opposed it. 165 of the 174 individuals who responded were against the proposal.

Those who supported the proposal generally welcomed the continuance of these legal routes of investigation into past cases. The SDLP felt that “the entitlements of due process are part of the core of a proper, ethical and legal way of dealing with the past.” Responses tended to focus on inquests in particular, with the Alliance Party noting that the “Coroners’ Service has provided an invaluable tool in uncovering the facts behind certain deaths.”

Other respondents opposed the proposal on the basis that outstanding inquests from Troubles related cases had not met the requirements of victims’ families or human rights law. Sinn Fein noted that the “current inquest system has patently failed the families involved.” They provided a list of outstanding inquests and were critical of the state’s role in “withholding information”. Relatives for Justice also felt the maintenance of the status quo in this area “only further facilitates political influence and will in our view hinder rather than assist truth processes.”

Several consultees provided comments and suggestions regarding the law governing inquests. British Irish Rights Watch described coronial law in this area as “a package of restrictive rules and legislation” which restricted the remit of legacy inquests “to the point of strangulation.” Organisations representing members of the security forces pointed to the specific issue of legacy inquests where national security information needed to be considered. The RUC George Cross Foundation stated that the “Government must find ways of dealing with historical inquests where there is a National Security Connotation, perhaps Special Coroners”.

### Recommendation 23

*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.*

Of the organisations who responded to this proposal, 8 supported the recommendation, whilst 14 opposed it. 165 of the 174 individuals who responded opposed the recommendation.

There was support from many respondents for the Group's decision not to recommend an amnesty. The NIRPOA, for example, felt that any amnesty would be "entirely unjust, inappropriate and highly damaging to public confidence in the rule of law and the political process." The suggestion that a line be drawn by the Commission, however, prompted strong opposition from a number of respondents. The suggestion was seen by these respondents as an attempt to introduce an amnesty after five years. The SDLP, for example, consequently set out a series of objections to the idea of an amnesty, including the view that it "offends against specific, international, binding legal standards and obligations to draw a line after five years or any time period."

Other respondents welcomed, though mostly with qualifications, the prospect of the Legacy Commission making recommendations in this area as part of the process of dealing with the past. Healing Through Remembering, for example, agreed that such a decision should be taken as "part of the overall process of dealing with the past under these proposals, rather than as a definitive decision made in advance."

Some respondents made alternative suggestions. Correymeela noted that "one point at which to 'draw a line' may be when the Review and Investigation Unit has completed its work and it is clear that there are unlikely to be more prosecutions" Some respondents felt that the issue of an amnesty itself was a distraction, with Firinne, for example, stating that the amnesty issues were "distractions on the path" towards finding the "Truth."

## Recommendations 24, 25 and 26 – Storytelling and remembrance

*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.*

*25. Future storytelling initiatives should be developed taking account of certain criteria.*

*26. 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.*

Of the organisations that responded to these proposals, 18 supported recommendation 24 whilst 8 opposed it; 15 supported recommendation 25 whilst 7 opposed it; and 16 supported recommendation 26 whilst 7 opposed it. 165 of the 174 individuals who responded opposed all three recommendations.

There was strong support from many respondents for the importance of remembering as a method of dealing with the legacy of the past in Northern Ireland. Most respondents focused their comments on storytelling and the need to encourage people to tell their stories. Storytelling was welcomed as a means of facilitating individual healing. One WAVE member noted that “it is a form of counselling.”

A number of respondents with considerable experience in this area did, however, warn against storytelling being seen as, in the words of Healing Through Remembering, “a panacea, even a short cut, to dealing with the past.” The Northern Ireland Centre for Trauma and Transformation noted that

“the constant re-telling of traumatic experiences and loss can be unhelpful to the individual and prohibit or delay recovery.” Others pointed to the need for strong support systems to be in place. The Southern Trauma Advisory Panel, for example, emphasised that “telling stories about the impact of the conflict without support systems in place and without a focus on the future can be counterproductive”.

Some respondents commented in detail on the proposed roles for the CVSNI, the Legacy Commission and the Reconciliation Forum, and the recommendation that criteria for storytelling be drawn up. Healing Through Remembering noted that “there is a risk of disempowering local initiatives by removing their autonomy in the centralisation of the process”. Others felt that the involvement of these bodies in storytelling could have significant benefits. The CAJ, for example, cited the possibility for “evidential potential in accounts” and noted that “stories and accounts entered into a good database could be useful in analysing what took place during the conflict and drawing lessons for the future”. There were mixed views on criteria for storytelling with some respondents welcoming criteria as a form of reassurance to participants whilst others criticised the criteria as too restrictive and limiting.

A number of consultees who opposed the proposals pointed to the potential for storytelling to re-open old wounds. The NIRPOA felt that “in an inappropriate context storytelling might amount to no more than the rehearsing and even the reinforcement of entrenched views or the opportunity for the spread of propaganda.” Several respondents emphasised the potential for former paramilitaries to be involved in storytelling. The TUV felt that storytelling which was inclusive would mean that “innocent victims are equated with terrorists.”

Some respondents put forward other specific ideas for remembering the conflict. The DUP, for example, suggested that a “detailed proposal for an oral and video archive for victims and survivors of *The Troubles*” suggested by academics to the Group should have been pursued.

Recommendations 27, 28 and 29 – Day of Reflection and Reconciliation, and Ceremony

*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 21<sup>st</sup> June each year. Consideration should be given to renaming the event a Day of Reflection and Reconciliation.*

*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.*

*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.*

Of the organisations that responded to this proposal, 17 supported recommendation 27 whilst 9 opposed it; 13 opposed recommendation 28 whilst 12 supported it; and 12 opposed recommendation 29 whilst 9 supported it. 165 of the 174 individuals who responded were against all three proposals.

Those who supported the principle of a day being set aside for remembrance highlighted the value of the current Day of Reflection and supported the promotion of the day. The voluntary nature of the day was highlighted by respondents as particularly important, with NIAC for example noting that “not everyone will feel able to participate in collective remembrance and this should be understood.”

A number of those supportive of the principles of a day of remembrance noted some concerns over the Group’s specific proposals. Healing Through

Remembering felt that the use of the term 'reconciliation' "had the potential to exclude a number of individuals and groups from taking part in such an initiative" and that, in relation to the keynote address, "perceived leadership on the Day from any particular section of our society may alienate other parts of society from engaging."

Those who opposed the recommendations on a day of remembrance tended to feel that the day was an unnecessary gesture and would not contribute to reconciliation. Some highlighted the already established Remembrance Day on the 11<sup>th</sup> November, with SAVER/NAVER, for example, noting that "we already participate in a national day of remembrance."

Respondents who did not support the idea of a shared ceremony tended to do so on the basis that they were opposed to the potential for a ceremony to create 'equivalence' between different groups. The South East Fermanagh Foundation, for example, saw this as "another proposal attempting to equate the terrorist and those who were terrorised". Those in favour of the proposal saw it as a necessary step in moving towards a shared future, with Forthspring noting that it reflected "a widespread desire to remember, and to move on, on a shared basis." Some respondents who supported the proposal nonetheless suggested that it should be carefully handled. The Church of Ireland working group, for example, suggested that the ceremony should be considered "at a later stage in the process, rather than set it as a fixed objective at this point."

Respondents had different views on who should play the lead role in relation to any ceremony. The Methodist Church in Ireland suggested that OFMDFM, the Executive and the Assembly should have the "primary role" whilst others felt that, as with the proposal for the keynote address, this could risk an over politicisation of the process. The Victims and Survivors Trust were strongly opposed to a role for the British and Irish Governments, noting that this would be "very insensitive" given the Governments were "protagonists in the conflict."

### Recommendation 30

*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.*

Of the organisations who responded to this proposal, 10 supported the recommendation, whilst 16 opposed it. 165 of the 174 individuals who responded were against the proposal.

There were two separate main arguments put forward by those who opposed this recommendation. Some respondents felt that the declaration would be a meaningless gesture and had no confidence in the willingness of paramilitary groups in particular to genuinely commit to such a declaration. Tyrone East Phoenix, for example, commented that it would be “foolhardy” to believe an organisation would sign up to the declaration and noted that there was “not enough trust within society in Northern Ireland to allow this to happen”.

Other consultees who opposed the recommendation focused their comments on who the Group proposed should sign such a declaration, rather than the concept of a declaration itself. The Alliance Party raised the issue of “moral equivalence” and noted that “not every person was responsible to some extent for what happened in Northern Ireland.” A number of respondents were heavily critical of the fact that the British and Irish Governments were not included within the recommendation. Sinn Fein strongly opposed the omission of the British Government, which they argued excluded the “the principal protagonist in the conflict” and was “breathtaking in its political bias”.

A number of respondents did offer unqualified support for the proposal. The Southern Trauma Advisory Panel, for example, proposed “open books in public places” to help facilitate the signing of such a declaration.



### Recommendation 31

*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 the Government in this regard.*

Of the organisations who responded to this proposal, 11 supported the recommendation, whilst 16 opposed it. 165 of the 174 individuals who responded were against the proposal.

Those respondents who supported this recommendation generally agreed with the concept of a shared memorial but felt that the time was not yet right to establish one. The Meath Peace Group, for example, felt that “it is only through time and sufficient societal agreement that such a memorial could be envisaged”.

Some of those who rejected the idea of a shared memorial did so on the grounds that it implied a ‘moral equivalence’ between paramilitaries and civilians. The UUP, for example, noted that in “the absence of an acceptable definition of ‘victim’ that does not equate the perpetrators of violence with those who suffered at their hands, such a memorial would deepen both hurts and divisions.”

A number of respondents gave views on what form of memorial should be considered. Several respondents proposed a ‘living memorial’, with Healing Through Remembering, for example, proposing “a Living Memorial Museum”. The Northern Ireland Centre for Trauma and Transformation suggested a “shared focal point” that “would represent our shared sorrow at the 'tragedy that befell us all' and of the hopes we have for the future.”

Some consultees commented on the potential site for a shared memorial. The Victims and Survivors Trust felt that it “will be difficult to find a place that is

equally accessible to all communities and that people feel is suitable for such a memorial.” Several organisations and victims based in Great Britain highlighted the importance of making memorials accessible to victims outside Northern Ireland. John and Rita Restorick suggested that funding should be made available to “place plaques at each tree in the Ulster Grove which commemorates members of the Armed Forces killed due to the Northern Ireland conflict and where a tree and plaque have also been placed by the Legacy Project (Warrington) to remember civilian victims.”

## **Other issues raised in consultation**

### **Definition of a victim**

Submissions to the consultation reflected the continuing controversy over this issue. Many of the different views corresponded with the public debate to date, with a division between those arguing strongly against a 'hierarchy of victims' and in favour of a broadly drawn definition; and others who maintained that a distinction must be drawn between civilians and members of the security services on the one hand, and paramilitaries on the other. But other responses received sought compromise, reflecting the range of opinions which exist on this issue.

A number of respondents criticised the current legislative definition of a victim and proposed a change in the law. The current definition was criticised specifically on the basis that it could include paramilitaries or the relatives of paramilitaries. Northern Ireland Terrorist Victims Together (NITVT) stated that "those who were clearly engaged in terrorist criminality cannot be defined as victims." The NITVT instead pointed to the The Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings, which defines a victim as "a natural person who has suffered harm, including physical and mental injury ... directly caused by acts or omissions that are in violation of the criminal law ..."

Other respondents were critical of any calls to change the law on the definition of a victim. Sinn Fein noted that "political legitimacy contests must be set to the side". They felt that the Good Friday Agreement mandated the current definition.

The Northern Ireland Affairs Committee noted that the current definition "should remain so until such time as an alternative gains cross-party support within the Assembly." They suggested, however, that "it is clear that further public debate is needed in order to build a clear consensus on this issue."

## Equality

In the consultation document, the previous Government sought views on the equality implications of the Consultative Group's proposals. A number of respondents covered equality issues in their submissions.

Sinn Fein gave a detailed analysis of the Government's obligations with respect to equality. The statement in the consultation document that all the Consultative Group's policies were intended to have a positive effect across the Section 75 categories was criticised as "presumptive, untested, unsustainable, and manifestly politically motivated."

Both Sinn Fein and the Committee for the Administration of Justice noted the obligation to promote equality rather than just tackle adverse impacts on equality. They concluded that an Equality Impact Assessment should be completed at the outset of the process. The RUC George Cross Foundation suggested an Impact Assessment be completed "on each of the recommendations which Government might decide to accept."

A number of potential adverse impacts to the proposals were highlighted by respondents. Some respondents pointed to the lack of a gender dimension to the proposals and argued for specific screening to ensure gender equality. The Women's Support Network suggested that the Government should "make a commitment to ensure that positive action measures are evoked to ensure that any future Legacy Commission and Forum has a total constitution of at least 50% women." Other adverse impacts were identified, with the CAJ, for example, noting that "there is also a significantly high percentage of people in Northern Ireland who acquired a disability as a result of the conflict."

## **Further advice from the Commission for Victims and Survivors**

The Commission for Victims and Survivors submitted further advice on dealing with the past to the Secretary of State, along with the First and deputy First Ministers, on the 30<sup>th</sup> June 2010.

The Commission's advice can be accessed via the link below:

[http://www.cvsni.org/index.php?option=com\\_content&view=article&id=132:commission-urges-government-and-community-to-act-together-in-addressing-the-legacy-of-the-conflict&catid=44:latest-cvsni-news&Itemid=54](http://www.cvsni.org/index.php?option=com_content&view=article&id=132:commission-urges-government-and-community-to-act-together-in-addressing-the-legacy-of-the-conflict&catid=44:latest-cvsni-news&Itemid=54)

The Government is grateful for the constructive advice the Commission has provided and will be considering this in detail over the coming weeks.

## **Annex A – list of respondents to the consultation**

### **Organisations, parties and professionals**

1. Alliance Party
2. Bailieborough, Ballinaglera and Boho Women's Groups.
3. British Association for Counselling and Psychotherapy
4. British Irish Rights Watch
5. British Psychological Society
6. Church of Ireland Gazette
7. Church of Ireland Working Group
8. Citizens Advice Northern Ireland
9. Coiste
10. Commission for Victims and Survivors for Northern Ireland
11. Commissioner for Public Appointments for Northern Ireland
12. Committee on the Administration of Justice
13. Community Foundation for Northern Ireland
14. Community Relations Council
15. Corpus Christi Counselling Services
16. Corrymeela Community
17. Criminal Cases Review Commission
18. Department of Health, Social Services and Public Safety
19. Dr Ann Long
20. Dr Catherine O'Rourke
21. Dr Michael Paterson (TMR Health Professionals)
22. Dr Patricia Lundy
23. Democratic Unionist Party
24. Eastern Trauma Advisory Panel
25. Falls Community Council
26. Firinne
27. Forthspring Inter-Community Group
28. Grand Orange Lodge of Ireland
29. Healing Through Remembering
30. Irish Network for Nonviolent Action Training and Education
31. Judge Peter Smithwick
32. Kit Chivers
33. Lord Chief Justice's Office
34. Meath Peace Group
35. Methodist Church in Ireland
36. Northern Ireland Music Therapy Trust
37. Northern Ireland Affairs Committee
38. Northern Ireland Centre for Trauma and Transformation
39. Northern Ireland Council for Integrated Education
40. Northern Ireland Human Rights Commission
41. Northern Ireland Retired Police Officers Association
42. Northern Ireland Terrorist Victims Together
43. Peacemaking Group, Belmont Presbyterian Church
44. Police Ombudsman for Northern Ireland

45. Public Prosecution Service for Northern Ireland
46. Professor Bill Rolston
47. Professor Colm Campbell
48. Progressive Unionist Party
49. Police Service for Northern Ireland
50. Quaker Service and Quaker House Belfast
51. RUC George Cross Foundation
52. Rural Community Network
53. South Armagh/North Armagh Victims Encouraging Recognition
54. Social Democratic and Labour Party
55. Sinn Fein
56. South-East Fermanagh Foundation
57. Together Encouraging and Remembering
58. Tim Parry Johnathan Ball Foundation for Peace
59. Traditional Unionist Voice
60. Trauma Recovery Network
61. Trauma Advisory Panel of the Southern Health and Social Services Board
62. Tyrone East Phoenix Group
63. Ulster Special Constabulary Association
64. Ulster Special Constabulary Association, Lisnaskea branch
65. Ulster Unionist Party
66. UNESCO Centre, University of Ulster
67. Victim Support Northern Ireland
68. Victims and Survivors Trust
69. WAVE
70. Western Health and Social Care Trust Trauma Advisory Panel
71. Women's Resource and Development Agency
72. Women's Support Network

## **Individuals**

174 individuals also responded to the consultation