

Report pursuant to section 3(16) of the Northern Ireland (Executive Formation etc) Act 2019 - the Definition of “Victim”

Presented to Parliament pursuant to section 3(16) of the
Northern Ireland (Executive Formation etc) Act 2019



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Victims and survivors, and the provision of services to them are devolved matters in Northern Ireland. This report is based on information provided by the Northern Ireland Office.

Section 3 of the Northern Ireland (Executive Formation etc) Act 2019 requires the Secretary of State to publish and lay before both Houses of Parliament a report on progress made towards forming an Executive and other matters.

This report made in accordance with section 3(16) of that Act which states:

The Secretary of State must publish a report on or before 4 September 2019 on whether the definition of “victim” in Article 3 of the Victims and Survivors (Northern Ireland) Order 2006 (S.I. 2006/2953 (N.I. 17)) should be revised to apply only to a person who is injured or affected wholly through the actions of another person.

Article 3 of the Victims and Survivors (Northern Ireland) Order 2006, as amended by the Commission for Victims and Survivors Act (Northern Ireland) 2008, provides an interpretation of “victim and survivor” for the purposes of the appointment and functions of the Commissioner for Victims and Survivors for Northern Ireland:

3. (1) In this Order references to “victim and survivor” are references to an individual appearing to the Commissioner to be any of the following—
 - a) someone who is or has been physically or psychologically injured as a result of or in consequence of a conflict-related incident;
 - b) someone who provides a substantial amount of care on a regular basis for an individual mentioned in paragraph (a); or
 - c) someone who has been bereaved as a result of or in consequence of a conflict-related incident.
- (2) Without prejudice to the generality of paragraph (1), an individual may be psychologically injured as a result of or in consequence of—
 - a) witnessing a conflict-related incident or the consequences of such an incident; or
 - b) providing medical or other emergency assistance to an individual in connection with a conflict-related incident.

As well as providing for the appointment and functions of the Commissioner for Victims and Survivors, the 2006 Order sets out the general powers, duties, aims and work programmes of the Commissioner. The Schedule to the Order covers additional matters including: status, term of office, staffing, funding, reporting and accounting requirements.

In 2018, the government launched a public consultation, *Addressing the Legacy of Northern Ireland's Past*. The consultation provided everyone with an opportunity to comment on the proposals set out in the 2014 Stormont House Agreement, including the establishment of the four new legacy institutions. While it did not specifically seek views on the definition of a victim, a number of respondents offered their views on this issue.

A number of respondents set out that they felt that attempts to redefine 'victim' would lead to exclusion and marginalisation of a significant number of victims and their families, including those killed or injured in disputed circumstances during the Troubles. Others argued for a change to the current definition of a victim, on the grounds that it was unacceptable that anyone who was injured or killed as a result of their own involvement in terrorism could be known as a victim. It is clear that there is no political consensus on this issue and this was reflected in the submissions of nationalist and unionist parties to the consultation.

In the absence of consensus on this sensitive and emotive issue, the position of the UK Government is that in order to make meaningful progress, this work would be best taken forward by a newly restored Executive. In the absence of an Executive it is for the Northern Ireland parties supported by the Secretary of State for Northern Ireland to reach cross-party agreement on whether the definition should be changed and, if so, how.

This issue is separate from our work to progress a scheme of payments to victims of Troubles-related incidents - the Victims and Survivors (NI) Order 2006 relates to the appointment and functions of the Commissioner for Victims and Survivors for Northern Ireland and not to wider issues such as the provision of a victims' payment scheme.

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