

Northern Ireland Office

Technical consultation on a summary of the proposed regulations about the holding and handling of information by the Independent Commission for Reconciliation and Information Recovery.

February 2024

About this consultation

Topic

This is a consultation in relation to a proposed statutory instrument (regulations) under section 34 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (regulations about the holding and handling of information) (“the Act”). The Act can be found at [Northern Ireland Troubles \(Legacy and Reconciliation\) Act 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2023/11/section-34)

This document provides a summary of the proposed regulations, and it is on this summary we are asking for feedback.

Duration of the consultation

This is a 4-week technical consultation. The deadline for responses is 5pm on Tuesday 26 March.

How to respond

Email: ICRIRinformationregulations@nio.gov.uk

Postal address:

ICRIR Information Regulations Consultation
Northern Ireland Office
1 Horse Guards Road
London
SW1A 2HQ
United Kingdom

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make clear who the organisation represents and, where applicable, how the views of members were assembled.

Government response

A summary of responses to this consultation and details of the action that the Government will take, or has taken, will be published on the Northern Ireland Office (NIO) website at www.gov.uk/nio before the regulations come into force.

Consultation approach

This consultation is being conducted in line with the Cabinet Office consultation principles published in March 2018. A copy of the principles can be found at: <https://www.gov.uk/government/publications/consultation-principles-guidance>

Equality

The summary of the regulations for consultation does not differ from the Act's original policy direction and therefore remains within scope of the previous Equality Impact Assessment completed by the NIO, which can be found here: [EQIA NI Troubles \(Legacy and Reconciliation\) Bill \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)

Confidentiality

The information you send us may need to be shared with colleagues within the NIO, other relevant UK Government departments and relevant Northern Ireland Executive departments. The information might also be published in a summary of responses received and referred to in the published consultation report. The published consultation report will include a summary of responses to the consultation and a list of organisations that responded but will not include personal names without receiving permission from the individual. Other contact details will not be published.

All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of this public consultation exercise, it is understood that you consent to its possible disclosure and publication. If this is not the case, you should limit any personal information provided, or omit it entirely. Any personal information provided will be stored for six months before being destroyed in accordance with data protection legislation. If you want the information in your response to the consultation to be kept confidential, you should state so clearly in your response, although this cannot be guaranteed.

To find out more about the general principles of Freedom of Information and how it is applied in the NIO, please contact: foi@nio.gov.uk

The NIO is the data controller in respect of any personal data that you provide and NIO's Privacy Notice, which sets out the standards you can expect in respect of the handling of your personal data, can be found at: [Privacy Notice - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

The consultation on a summary of the proposed regulations

Introduction

The Independent Commission for Reconciliation and Information Recovery (“the Commission”) was legally established in 2023. The Commission is due to commence operations in May 2024. Under the Act, the principal objective of the Commission in exercising its functions is to promote reconciliation. The functions of the Commission are:

- to carry out reviews of deaths that were caused by conduct forming part of the Troubles;
- to carry out reviews of other harmful conduct forming part of the Troubles;
- to produce reports on the findings of each of the reviews of deaths and other harmful conduct;
- to determine whether to grant persons immunity from prosecution for serious or connected Troubles-related offences other than Troubles-related sexual offences;
- to refer deaths that were caused by conduct forming part of the Troubles, and other harmful conduct forming part of the Troubles, to prosecutors;
- to produce a record of deaths that were caused by conduct forming part of the Troubles.

To support its functions, the Commission has powers to obtain information from relevant authorities and other persons.

It is vital that the Commission handles and holds this information, and all other information in its possession, in a secure manner to prevent unauthorised disclosures and retain the confidence of those engaging with the Commission.

Summary of the proposed regulations in relation to the Commission’s holding and handling of information

Section 34 of the Act states that the Secretary of State may, by regulations, make provision about the holding and handling of information by the Commission.

The proposed statutory instrument requires the Commission to put in place a policy statement articulating its policies and procedures in relation to the holding and handling of information by it, specifically:

- (i) securely accessing information held by others (including information which is to be transferred to the Commission);
- (ii) the secure receipt of information being transferred to the Commission;
- (iii) the secure retention of information by the Commission;
- (iv) the secure destruction or transfer of information which is to cease to be held by the Commission;

- (v) managing and investigating any breaches of the Commission's policies and procedures in relation to the holding and handling of information.

The proposed statutory instrument requires that in drafting the policy document the Commission has regard to, and insofar as possible reflects the requirements of, the following documents:

- [Government Functional Standard GovS 007: Security \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/functional-standards/govs-007-security)
- [HMG Personnel Security Controls](#)
- [Government Security Classifications Policy](#)
- [International Classified Exchanges](#)
- [Guidance: Protecting international RESTRICTED classified information](#)

The UK Government has well developed and tested policies for handling and holding information and it is envisaged that requiring the Commission to replicate these as far as possible will ensure information is held and handled securely.

The proposed statutory instrument requires the Commission to publish the policy document at the same time as it publishes its first annual report, and to keep it under review and update it as required.

The proposed statutory instrument provides for an annual external review of the Commission's policies and procedures in relation to the holding and handling of information. A person conducting such a review will have to produce a report for the Chief Commissioner and the Commission will have to have regard to it.

The proposed statutory instrument creates provision for the Commission to request assistance from relevant authorities in holding or handling information. The relevant authorities would not be obligated to provide the requested assistance but would be obligated to respond to a request and provide reasons if they are unable to assist the Commission. It is envisaged that the Commission may request assistance in the form of a relevant authority storing information on their behalf or in transferring sensitive information securely.

Finally, the proposed statutory instrument sets out that where the Commission provides third parties with a draft report or material under section 16 of the Act (consultation on reports), the Commission must notify the recipient that the report or material is being provided to them in confidence for the sole purpose of making representations. Where the Commission otherwise discloses information to a person, it may notify the person that the information is being provided in confidence.

Responding to the consultation

Your thoughts and comments are invited on the above summary of the proposed regulations. We are keen to hear any views that you may have.