

Northern Ireland Office section 34 information holding and handling regulations for the ICIR - summary of consultation responses and government response

Introduction

1. The Northern Ireland Office (NIO) undertook a technical consultation from 27 February to 26 March 2024.
2. The consultation related 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 \(legislation.gov.uk\)](#).
3. The document consulted on was a summary of the proposed regulations and can be found here: [Consultation launched on the proposed regulations about the holding and handling of information by the Independent Commission for Reconciliation and Information Recovery \(ICRIR\) - GOV.UK \(www.gov.uk\)](#).
4. Respondents were asked to provide their general views on the summary of the proposed regulations.
5. This document provides a summary of the responses received to the consultation and the Government’s response.

Background to the consultation

6. 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 Independent Commission for Reconciliation and Information Recovery (“the Commission”).
7. 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:
 - a. securely accessing information held by others (including information which is to be transferred to the Commission);
 - b. the secure receipt of information being transferred to the Commission;
 - c. the secure retention of information by the Commission;

- d. the secure destruction or transfer of information which is to cease to be held by the Commission;
 - e. managing and investigating any breaches of the Commission's policies and procedures in relation to the holding and handling of information.
8. 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:
- a. Government Functional Standard GovS 007: Security (publishing.service.gov.uk) ([Government Functional Standard GovS 007: Security \(publishing.service.gov.uk\)](#))
 - b. HMG Personnel Security Controls ([20221031-HMG Personnel Security Controls-V6.0-October 2022.docx \(publishing.service.gov.uk\)](#))
 - c. Government Security Classifications Policy ([Government Security Classifications Policy June 2023.docx \(publishing.service.gov.uk\)](#))
 - d. International Classified Exchanges ([Business Continuity – Useful Links \(publishing.service.gov.uk\)](#))
 - e. Guidance: Protecting international RESTRICTED classified information ([Business Continuity – Useful Links \(publishing.service.gov.uk\)](#))
9. 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.
10. 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.
11. 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.

12. 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.

Consultation responses

13. We received two responses to the consultation from public sector organisations; one from the Police Ombudsman for Northern Ireland (“the PONI”) and one from the Information Commissioner’s Office (“the ICO”).

14. The PONI requested clarity on a definition used within the legislation, which was provided.

15. The ICO raised general observations regarding data protection, which will be shared with the ICRIR.

16. The ICO also raised points specifically related to the legislation. Some of these points recommended that more specific language be used in the legislation or that extra detail be added to certain regulations.

17. A final point was made by the ICO relating to the powers conferred in the Act to the Secretary of State, which was not within scope of the consultation.

Government response and next steps

18. After consideration, no changes were made to the legislation. The legislation and the Government standards and policies that the Commission is required to have regard to provide the required detail. In addition, the wording used in the legislation has been drafted in such a way that ensures flexibility for the approach of the Commission, given it is an independent body.

19. The Government laid the regulations on 11 April 2024 and they can be found here: [The Independent Commission for Reconciliation and Information Recovery \(Holding and Handling of Information\) Regulations 2024 \(legislation.gov.uk\)](https://www.legislation.gov.uk).