

## FACT SHEET: NORTHERN IRELAND TROUBLES BILL

### Background

Northern Ireland's past is one of the major factors in shaping its present – the legacy of the Troubles continues to be deeply felt both by victims and society, with significant impacts on politics, public debate and trust in the police and wider justice system. More than 3,500 people were killed as a result of the Troubles, including many members of the security forces, with many more injured.

The 'Troubles' generally refers to the period from the late 1960s to the signing of the Belfast Agreement on 10 April 1998. The Good Friday Agreement is considered to have brought an end to the Troubles. However, it is widely acknowledged that it did not address the legacy of the Troubles, with its impact continuing to be felt in various ways since the agreement.

The previous Government passed the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, the "Legacy Act 2023" to address the issue of legacy.

### Overview of the legislation

The Northern Ireland Troubles Bill ("The Troubles Bill") delivers on the Government's manifesto commitment to repeal and replace the Legacy Act 2023 which was widely opposed by all Northern Ireland's political parties, victims' groups, and the Irish Government. It also made false and undeliverable promises to veterans about immunity. The failed immunity scheme, which was never commenced, would have offered immunity to those who committed the most appalling acts of terrorism, and it was rejected by our domestic courts, by victims and survivors, and by many veterans who saw it as an affront to the rule of law that they sought to protect.

The Troubles Bill will address the failings of the Legacy Act, and will faithfully implement commitments made by the UK Government in the Joint Framework agreed with the Irish Government on 19th September.

### Key measures in the Bill:

- **Creating a reformed Legacy Commission**, with statutory oversight arrangements to provide accountability, and a statutory advisory group to ensure that the voices of victims and survivors, including those from a service background, are heard as part of the Commission's work. We will strengthen the governance, including introducing two new co-directors of investigations and statutory conflict of interest duties, with statutory appointments to the Commission to be made following consultation with relevant individuals, in order to inform the appropriate appointments process.
- **Providing enhanced clarity on fact finding powers and a fairer disclosure regime**, ensuring that the Commission has all it needs to find answers for families, and the maximum possible information can be made public, subject to proportionate safeguards. The Legacy Commission will be tasked with carrying out investigations

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and exploring all relevant investigative leads. In all cases the Commission will focus on providing as much information as possible regarding the circumstances of the case to families;

- **Providing an approach to inquests that fulfils the commitments we have made to restore those that were in progress and halted by the Act**, while recognising the primary role that the reformed Legacy Commission will play in providing answers for families, particularly in cases containing sensitive information. Other inquests halted by the Legacy Act will be referred to the Solicitor General to independently consider whether, in each case, they are most appropriately dealt with by the Legacy Commission or in the coronial system;
- **A new process within the Commission to handle cases that transfer from the coronial system**. Consistent with the approach in the Inquiries Act, this will have provision for public hearings, the ability to consider sensitive information in closed hearings, and provide effective next of kin participation, including through legal representation;
- **The establishment of an Independent Commission for Information Retrieval**, jointly with the Irish Government, and consistent with the Stormont House Agreement. This will, initially on a pilot basis, provide families with an additional means to retrieve information; and
- **A package of veteran protections**, that will apply to any veteran who served in Northern Ireland during the Troubles and is asked to engage with a legacy process, ensuring that they are treated with dignity and respect.

The Troubles Bill will leave in place Part 4 of the 2023 Legacy Act which will ensure that the provisions regarding oral history, academic research, and the memorialisation of the Troubles remain intact.

### How the Bill protects Veterans

We will never forget the service and sacrifice of those personnel who served in Northern Ireland. Their service was crucial in helping to bring about the peace that Northern Ireland today enjoys. We will ensure that no veteran who properly carried out their duty is forced to face an endless cycle of legal uncertainty.

We must - and we will - always hold our Armed Forces to the highest standards, with processes in place that recognise the duty to treat those who served the state fairly and with respect. The last Government's Legacy Act offered undeliverable promises of immunity, and it was rejected by domestic courts and victims alike, not least because it would have granted immunity to those who committed the most appalling acts of terrorism, including against members of the Armed Forces.

Included within this legislation will be new protections, not included in the previous government's Legacy Act, that will apply to any veteran who served in Northern Ireland during the Troubles and is asked to engage with a legacy process, ensuring that they are treated with dignity and respect. They are:

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- **Protection from repeated investigations** – The Commission will be under a requirement not to duplicate the work of any previous investigations unless that duplication is essential.
- **A right to stay at home** – Changing the law to ensure no Northern Ireland veteran is forced to travel to Northern Ireland to give evidence to the Commission or to an inquest, where modern technology will enable them to engage remotely.
- **A right to anonymity** – All veterans are entitled to seek anonymity when giving evidence and newly introduced provisions mean this will be granted, unless in exceptional circumstances;
- **Protection in old age** – we will legislate through this Bill to require the Commission and coroners to consider the health and wellbeing of elderly witnesses – including whether it would be appropriate for them to give evidence at all.
- **A right for veterans' voices to be heard** – There will be a statutory advisory group that will provide an opportunity for the voices of all those victims and survivors of the Troubles to be heard, including those from a service background, and the Commission will be required to take account of wider circumstances surrounding incidents being investigated.

Separately to the legislation, the Government is ensuring that veterans will be protected from cold calling through a new protocol. This will ensure they are only ever contacted with the support of the MoD, meaning that from the moment of contact they are supported by the state that asked them to serve. In addition to this, the MoD will put forward an independent advisor with operational experience to support investigations, to remove the need for veterans to give unnecessary evidence on historical context and general operational details.

Everyone agrees that victims and families across Northern Ireland and the rest of the UK – including over 200 Armed Forces families who lost loved ones during the Troubles – need a fair, proportionate and transparent system to seek answers. We will be communicating with veterans to ensure they understand how we will support them and ensure they are treated fairly and with respect for their service. This legislation is fair, balanced and proportionate.

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| Protection                                                                                                                                                                                                                                                                  | How will this be achieved?                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|
| <b>Six Protections</b>                                                                                                                                                                                                                                                      |                                                      |
| <b>Protection from repeated investigations.</b> The Legacy Commission won't needlessly duplicate previous investigative work veterans may have already participated in, unless it is necessary, and veterans won't need to explain historical context that's already known. | Legislation<br><br>Clauses 30, 31, 36, 51, 84 (16AC) |
| <b>Right to stay at home.</b> Veterans will not be forced to travel to or around Northern Ireland to give evidence as a witness to the Commission or to an inquest.                                                                                                         | Legislation<br><br>54, 84 (16AD)                     |
| <b>Right to seek anonymity.</b> Veterans will be able to request anonymity when giving evidence.                                                                                                                                                                            | Legislation<br><br>56                                |
| <b>Protection in old age.</b> Veterans' health and wellbeing will be taken into account by the Commission and Coroners if they are required to give evidence, although they may not need to give evidence at all..                                                          | Legislation<br><br>69, 84 (16AC)                     |
| <b>Protection from cold calling or unexpected letters.</b> Veterans will only be contacted through official channels, with Ministry of Defence support.                                                                                                                     | Separate protocol                                    |
| <b>Right to be heard.</b> There will be a statutory advisory group that will provide an opportunity for the voices of all victims and survivors of the Troubles to be heard, including those from a service background.                                                     | Legislation<br><br>8                                 |

### How the Bill will restore confidence in the Governance of the Commission

The Troubles Bill puts in place provisions to reform the structure, governance and processes of the ICIR - including renaming it the 'Legacy Commission'. There will be new arrangements to provide accountability for the Commission, including an oversight Board with an independent, non executive Chair and a statutory victims and survivors advisory group to ensure that the voices of all those affected by the Troubles are heard in the Commission's work.

The Bill will fully address current conflict of interest concerns by placing statutory duties on the Commission, The legislation will also replace the ICIR's current Commissioner for Investigations role with two Co-directors for Investigations of equal standing. One Co-director will have experience of conducting criminal investigations in Northern Ireland, and the other will not. The Bill will also require the Secretary of State's appointments to the Commission to be made following consultation with relevant individuals, in order to inform the appropriate appointments process.

### **How the Bill increases the ability of the Commission to conduct investigations**

The Bill will enhance the Legacy Commission's investigative functions and remit.

The Legacy Act provided for a 5 year period in which new investigations could be requested. This Bill restarts that 5 year period from two months following Royal Assent, to reflect the wider changes to the Commission and the desire to give families more time to consider whether they want the Commission to undertake an investigation or not. It also allows the Commission - in certain circumstances - to carry out investigations outside the initial 5 year period.

The Legacy Act precluded investigation or prosecution of offences that are Troubles related but not connected to a death or serious injury. This Bill restores responsibility for investigating these "other offences", including sexual offences, to the relevant police forces.

The Bill will expand who can refer cases to the Commission for investigation to improve efficiency and confidence in the Commission's management of its caseload. This will be done by adding to the list of public bodies who are able to refer cases directly to the Commission.

### **How the Bill will approach inquests**

Section 44 of the Legacy Act 2023 prevented coroners from starting new inquests into deaths resulting directly from the Troubles and required any inquest which had not reached the verdict/determination stage to be closed. This meant that Troubles-related inquests that had not reached an advanced stage stopped from 1 May 2024.

The Troubles Bill will:

- Enable restoration of the small number of Troubles-related inquests which were stopped in their tracks on 1 May 2024 under the Legacy Act;
- Provide a new mechanism for those inquests that had been ordered but had not commenced hearings before 1 May 2024. The Solicitor General will follow statutory criteria to determine, in each case, whether they will be most appropriately progressed in the reformed Legacy Commission or as an inquest.
- Create provision regarding the case management of Troubles-related cases which proceed as inquests, including in particular guidance relating to the welfare of individuals who give evidence to, or otherwise participate in, the inquest.

These provisions will mean that no **new** Troubles related inquests will start. They could only do so after the Commission is wound up in exceptional circumstances.

### **Proceedings for cases that transfer into the Commission from the coronial system**

The Bill introduces a new approach for proceedings that will be conducted by the Legacy

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Commission. This approach will be reserved for cases referred to the Commission from the coronial system, and will be chaired by a judge. The proceedings, which draw on the Inquiries Act 2005 model, will have provision for public hearings, effective next of kin participation (including through legal representation), and will be able to consider sensitive information in closed hearings. The judge will publish a report following the conclusion of the proceedings.

### **How will the Irish Government will play a part in delivering this**

This legislation delivers on the UK Government's commitments in the joint framework signed with the Irish Government. The Framework also contains important and unprecedented commitments by the Irish Government, recognising that addressing the legacy of the Troubles is the responsibility of both the UK and Irish governments. The Irish Government will be bringing forward its own legislation and is committed to:

- **Facilitating the fullest possible cooperation of the Irish authorities with the reformed Commission**, including making information held by the Garda and other Irish authorities available;
- **Establishing a dedicated unit within An Garda Síochána** (the Irish Police) to deal with Troubles-related cases; and
- **Making a financial contribution of €25 million to support families** in the legacy process.

These commitments by the Irish Government are very significant, and will help more families - including families of service personnel killed serving during the Troubles - to finally seek answers about what happened to their loved ones.