

Final Submission October 2009

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RE: Dealing with the Past in Northern Ireland: The Recommendations of the Consultative group on the Past

1. Introduction

- 1.1. The Community Relations Council (CRC) welcomes the opportunity to contribute to the current consultation undertaken by the Northern Ireland Office (NIO)). Prior to the launch of this consultation CRC submitted an Initial Reaction paper to the Secretary of State which examined many of the issues contained in the current document. Therefore to avoid duplication CRC's initial reaction paper will form the basis of this response; we will however expand our comment in a number of areas as requested.
- 1.2. At the outset it is worth recognising the enormous changes that have taken place in recent years. Northern Ireland is no longer a byword for conflict alone, but instead has given hope that even the most intractable of political conflicts could be resolved through the political process. In recent years, we have made huge strides towards peace rooted in shared power, agreed institutions, the principle of consent, equality and human rights and the rule of law. Where we have been successful, these changes have all been characterised by a willingness to strive for inclusive agreement, by a commitment to accommodate others and even to difficult compromise, and to a firm commitment to build trust on the basis of inclusion, equality and an end to violence. There are future opportunities
- 1.3. The Report from the Consultative Group on the Past (CGOP) looked at how we might address the past and shape our futures; it attempted to deal with some of the complexities of the conflict and CRC is pleased that it also examined other issues outside of the Victims & Survivors sector. It was an extremely difficult and sensitive task, and

one that required the consideration of many aspects of our conflict and CRC welcomes the report and recommendations, particularly as an official exercise instigated by government.

- 1.4. CRC's goal is to lead and support change in Northern Ireland towards reconciliation, tolerance and mutual trust and promote sharing over separation. We work by promoting constructive and relevant dialogue, by actively supporting those taking real risks for relationship building, by acting as a practical bridge between groups in society and between the public, private, voluntary and community sectors and by promoting wider learning through developing better practice. This submission will focus on recommendations most pertinent to our work.

2. Legacy Commission (Recommendation 1,3,7,10, 13, 14)

- 2.1. In principle CRC is strongly supportive of the development of a process to ensure that the legacy of conflict and shaping a shared future is properly addressed. However, the creation of any new body, as proposed in the report, should not in any way undermine current work, but compliment and add value. Too many of the current proposals do not take adequate account of the current structures addressing these issues, and it would be important to ensure that the final structures are redesigned so as to build on current practice and enhance their effectiveness.
- 2.2. It is our opinion that any and all new bodies would have to be independent from any political interference in order to have the confidence of the whole community and to ensure engagement from the many parts of our society who may wish to contribute to the process of addressing legacy issues.
- 2.3. A new commitment to legacy and sharing the future represents an opportunity to examine the work currently being undertaken at a local level in a far more systemic and a coordinated manner. It is important that the examination of the past engages the whole of society, particularly as there are huge differences of opinion between seeking justice and reconciliation. Any new body should be capable of developing a broad societal approach and the engagement of key bodies.
- 2.4. CRC, along with other organisations, are currently responsible for the development and delivery of a number of programmes which seek to address many of the issues highlighted in the report which would become the responsibility of the legacy commission. In order to ensure a strategic and coordinated approach much more thought is required in terms of the remit of the body, how it would operate, its membership, and the relationship with current bodies.
- 2.5. The history of the conflict has not been restricted to Northern Ireland and an international perspective on reconciliation, truth and justice is a welcome dimension of the proposals, provided that it does not relieve local people and institutions of their sense of engagement and responsibility. The appointment process should involve the British and Irish Governments, as well as the local Assembly, and should comply with the public appointments process. Furthermore, given the level of legal and judicial responsibility under three of the strands it seems

appropriate that international appointees would have a background and knowledge of those particular fields as well as human rights.

- 2.6. CRC supports the involvement of both the British and Irish Governments in this initiative but further detail is needed in terms of their input other than financial contribution and the appointment process. How do governments view their contribution to truth recovery and justice issues? Will they be legally bound by the recommendations following monitoring and evaluation of the different strands, and what influence will they have over the development of public policy under the devolved administration?
- 2.7. Furthermore, it might be useful to explore the role of Europe and USA in this initiative given the political and financial support given over the years e.g. SEUPB and IFI support etc.
- 2.8. International figures could also play a role in terms of promoting best practice within public policy, trauma services, research and independent monitoring and evaluation on progress made. International Jury[§] could also be used to examine thematic issues such as education and housing.
- 2.9. It will also be extremely important to consider how this body will interact and liaise with local leadership, both in the Assembly and local government. Addressing the past is a difficult issue and demands support from the various political institutions and parties. Support from the body politico is needed if we are going to address the legacy of the conflict at a societal level. It is not simply a task for individuals and communities but must be advocated for at a regional and national level.
- 2.10. Clearly any Legacy Commission or other process will have to be properly funded to ensure they can carry out the various strands of work.

3. Reconciliation Forum and Society Issues (Recommendation 4,6,11,12)

- 3.1. CRC welcomes the emphasis in the Report on healing and reconciliation as a critical element of dealing with the past, and believes that this must be explored beyond the narrower issues of Victims and Survivors. CRC is absolutely convinced that all government institutions and bodies have a role to play in building trust, inclusion and reconciliation.
- 3.2. CRC is clearly not opposed to a body that promotes societal reconciliation in principle. However we remain seriously concerned that insufficient thought has been given to the current proposed design. As it stands there is serious potential for overlap and duplication in the current proposal our own work with no clear lines of relationship or authority.
- 3.3. Over many years, CRC has been energetically committed to the practical promotion of reconciliation on the basis of fairness and equality, respect for diversity and a commitment to build a shared and better future for all. The wealth of social, community and organisational practice and knowledge that has been created as a result must obviously be central to any institutional commitment to

reconciliation. As it stands, the current proposal for a Reconciliation Forum creates uncertainty about the relationship of the work of a legacy commission into the past and the role of CRC. We believe that any Forum for Reconciliation must be separated from the issue of Victims and Survivors and located within a frame of reference which gives priority for the collective need to define and shape a shared and better future. While the engagement of the Commission for Victims and Survivors in this body is vital, we are not convinced that legacy should be convened as an issue led under this rubric. Thus while welcoming the broad concept CRC believes that current proposed design is unworkable. We look forward to working with those responsible in such a project so as to ensure maximum benefit for all and to integrate the intentions of the proposal with a viable institutional structure.

- 3.4. Any redrawing of roles and responsibilities would need to be carefully and precisely reworked in order to minimise confusion about responsibilities and roles. This is a complex area of work and it requires an infrastructure which is streamlined, outcome-focussed and with resources dedicated to the task at hand rather than the bureaucracy. The end goal is to ensure that real change to a shared and better future, together with an emphasis on, better services and real support for those who have suffered most.
- 3.5. It is important any additional money in the form of the £100 million bursary is delivered in a strategic way. It will be important to carefully consider what projects/programmes this money will fund, and how they can be future-proofed in terms of sustainability. What legacy will this fund leave behind?

3.6. *Challenge*

- 3.6.1. A Commission with the public authority to challenge all carrying responsibility in relation to inter-community reconciliation will be critical, as will its official recognition by others as a champion.. It is necessary to provide more detail on how the Chair of the Legacy Commission will engage with the Reconciliation Forum and other stakeholders who are currently working to tackle sectarianism i.e. remit over external bodies etc.
- 3.6.2. Formal agreements of memorandum will be required in order to ensure action from the various government departments who are tasked with undertaking this work at present. Institutional action will be required. Words are not enough.

3.7. *Health*

- 3.7.1. CRC is unclear about the nature of the proposal that the Reconciliation Forum should have a mandate to promote healthcare issues (recommendation 6). The Department of Health should be dealing with issues such as trauma, suicide and addiction already. Furthermore it has not been made clear if statutory agencies will be members on the Reconciliation Forum. If the Legacy Commission and the Reconciliation Forum are to promote the bigger picture in terms of legacy and impact CRC recommends the involvement of Departments on this type with

any new legacy body to ensure sharing of best practice and the address gaps in service provision etc.

3.7.2. CRC feels that the isolation of healthcare issues from other issues affecting legacy is unsatisfactory and the Reconciliation Forum should be able to influence all government policy that impacts on the legacy of the past and contribute to building a shared future.

3.8. *Young people & Socio economic issues*

3.8.1. Young people are referred to in the report but much more work is needed to develop proposals that examine trans-generational impacts, economic disadvantage, and the disenfranchisement of young people from society.

3.8.2. The socio-economic impact of the conflict is also referred to but there is little detail as to how this should be addressed. Actions are required if we are to tackle the legacy of the conflict on our poorest communities. More thought is required as to how this can be done in conjunction with the many service providers and government departments already tasked with doing this.

3.9. *Public Policy*

3.9.1. CRC would like to see the development of proposals that will set a new direction for public policy. Legacy issues such as unemployment, poverty, education, health inequalities need tackled. According to Northern Ireland Statistics and Research Agency (NISRA) 17 of the top twenty most deprived areas in Northern Ireland are located in North or West Belfast. It is clear that some of the most deprived parts of Northern Ireland are also the most segregated, and contain the greatest number of peace walls. It should be noted that North and West Belfast alone accounted for 1240 (or over one third) of the 3636 fatalities in total that took place over the course of the conflict¹. Such statistics provide direct evidence of the disproportionate impact of the conflict on the poorest sections of our society. The needs of these communities must not be met by reproducing the circumstances which produced the problems in the first time. A ~~more~~ of the same approach will not change the patterns of the past.

3.10. Further considerations for public policy:

3.10.1.1. Barriers to employment and facilities in terms of interfaces & communal boundaries.²

3.10.1.2. Shared Spaces and the development of measures that create and sustain open and safe spaces with agreed mechanisms for enforcement.

3.10.1.3. Housing policy in contested space.

3.10.1.4. Education and its contribution to reconciliation. The UNCRCS recent report on Northern Ireland (October 2008) acknowledged this division and recommended that government should ~~take~~ measures to address segregation of

¹ CAJ Submission to Eames/Bradley, Legacy of the Past.

² Breaking Down Barriers: Sectarianism, Unemployment, and the Exclusion of Disadvantaged Young People from Northern Ireland Society, Hargie et al 2006.

education in Northern Ireland. Therefore any Legacy Commission should examine how the Department, the new Education Skills Authority (ESA), Schools and Governors can promote reconciliation and collaborative partnerships on a cross-community/sectoral basis. Specific proposals need to be developed in relation to the role of education in dealing with the legacy of the past.

4. The Recognition payment (Recommendation 4)

- 4.1. CRC believes that there should be an acknowledgement that not all suffered equally. CRC does not have a fixed view on the appropriateness of an acknowledgement payment; although we acknowledge the spirit in which it was conceived and recognise that there are many different circumstances within the victims and survivors sector and the corresponding difficulties for some. At the same time, we are also that hardship issues remain and these need to be addressed.
- 4.2. The issue of an acknowledgement payment has probably now become hostage to a bitter public debate. The public reaction to the proposal from some quarters has only heightened feelings of outrage and disillusionment with the report in its entirety, and the consequence has been the withdrawal by the British government of any commitment to future action on this particular proposal. The rather sudden withdrawal was unfortunate given the ongoing opportunities for wider consultation on this issue.
- 4.3. It should be noted that this recommendation did not take those who have suffered physical injury and mental trauma into account and this has caused considerable upset and anger in some quarters.
- 4.4. Through the focus on a payment, CRC believes that two issues-acknowledgement of suffering and the need to care for the needs of victims . may have become unhelpfully connected. Notwithstanding the decision on a recognition payment, CRC believes that the following three issues must be addressed in the future: :
 - meeting the direct and immediate needs of Victims and Survivors
 - greater progress on truth recovery
 - honest acknowledgement of past violence

5. The Commission for Victims and Survivors(CVSNI) (Recommendation 5)

- 5.1. The report makes recommendations for the programme of work for the CVSNI. We believe that it is vital the Comprehensive Needs Assessment is finalised, and agreed Victims Forum is established and that uncertainties over the Victims Strategy and Victims Service are resolved.
- 5.2. CRC have attached our response to both the Northern Ireland Affairs Committee which relates to future needs of the Victims and Survivors Sector and highlights key areas that need action. We have also included our most recent submission to OFMDFM on the establishment of a Victims and Survivors Service, which raises questions over the setting up of a new NDPB in the current economic

climate as well as concerns over losing expertise during any transitional phase.

- 5.3. The Report correctly identified the diverse range of needs within the sector but again we must emphasize the growing sense of a lack of vision for the sector. CRC believes that the only way in which victims and survivors work can be saved from endless recrimination and blame is to place need at the centre of our activities and to offer the vision of a shared and better future for all. CRC recognizes the sensitivities around the very notion of sharing the future and further thought must be given as to how the Commission, The Victims Strategy, the Victims Service and the Forum will each contribute to reconciliation and peace building in a co-ordinated approach.
- 5.4. A co-ordinating and monitoring role of the Commission will be central in order to ensure that evolving needs of the sector are being met and that practitioners are discharging their services under clear guidance and criteria.
- 5.5. Recommendation 6 refers to the role of the Reconciliation Forum and its mandate in terms of healthcare. A lot more detail is required as to the relationship between the VSCNI, the V&S Forum and any new V&S Service in terms of comprehensive needs assessment, unmet need and how these structures will interact with the Department of Health & Social Services on these issues.
- 5.6. This work needs to happen regardless of the development of a Legacy Commission or a Reconciliation Forum.

6. Societal Engagement (Recommendation 15)

- 6.1. CRC believes that different organisations, sectors and individuals will need to embark on a process of reflection during the legacy period. All institutions should address their contribution. Whilst the report highlighted the role of the Christian Churches, CRC believes it would also be appropriate to develop a process of dialogue with a number of organisations and interests e.g. public bodies, education providers, business and trade unions, NGOs, community and voluntary groups, sporting bodies and many others. Many sought to avoid and manage the conflict which devastated so many communities; therefore a holistic process is required that enables and encourages multiple conversations to take place and allows collective reflection on activities - past, present and future.
- 6.2. CRC is aware this current consultation process offers an opportunity for society and organisations to comment on the proposals; the next step will be the production and publication of NIO recommendations by the NIO. It will be crucial to facilitate public engagement on these final recommendations and this should include creating space for public debate to ensure maximum participation

7. Conflict –related convictions (Recommendation 16)

- 7.1. CRC agrees with the incorporation of the Quigley-Hamilton guidance into statute as part of the process of the long-term rehabilitation of those with conflict-related convictions.

8. Truth & Justice (Recommendation 17-19)

- 8.1. CRC has a keen interest in the area of truth and justice as it impacts on much of the work we fund and support.
- 8.2. CRC supports the development of information Recovery and Investigative processes. These practices can help build confidence in the criminal justice system and deliver the justice that many families seek; therefore CRC believes that the work of the Historical Enquiries Team (HET) and the Police Ombudsman (PONI) should continue, although it will be crucial to clarify structures, roles and resources.
- 8.3. The proposal to subsume the work of the HET and the PONI into a new structure raises other technical and operational issues. As in the context of the Reconciliation Forum, a new structure should build on the best practice of existing work and address the gaps and deficiencies of current work in this area. Any merger should not result in delaying the truth recovery process. Any new institution should be designed to improve community confidence in the rigour and independence of the process.
- 8.4. CRC would like further information on accountability and oversight structures of these strands of work; further detail is required regarding the relationship between the information recovery and investigations unit.
- 8.5. Confidence in these processes will depend heavily on the co-operation by all those who have information to give.
- 8.6. The role and involvement of the families is essential within these strands. It will be crucial from the outset to determine the expectations of the families and to explain the various options open to them. Truth recovery and investigative process should seek to minimise the re-traumatization of those seeking closure.
- 8.7. More information is required on aspect of the proposals, particularly in relation to the compelling of documents, protected statements and how they are compliant with human rights.

9. Remembering (recommendation 24-31)

9.1. Storytelling

- 9.1.1. Storytelling can be of huge benefit to society, particularly for the person or community telling the story. The telling of a story is important as this can have a positive and empowering impact; what is also critical is the hearing and listening of those stories. Intra community dialogue is beneficial but inter-community can increase opportunities for reconciliation. Best practice models should be encouraged and further thought is required as to how this can produce maximum benefit for those who want to tell their stories but also for wider society.
- 9.1.2. There are currently many organisations supporting storytelling initiatives and again CRC would like further detail as to how this knowledge and expertise will be harnessed and used within any Legacy Commission. In addition CRC, together with our consortium partners Border Action are currently responsible for the administration of funding to acknowledge and deal with the past as part of the Peace III programme, with a particular

emphasis on addressing legacy and truth in public memory. This will naturally be of interest to any new Commission and Forum. Therefore in order to be able to make further comment on this matter, it would be helpful if there was much more detail on how the work of CVSNI and other organisations involved in this work will officially interact.

9.1.3. CRC feels that young people should be heavily involved in this aspect of the report. It should be linked to the curriculum and youth provision and will therefore require much more thought as to how this can be rolled out across the various youth services. This type of work with young people needs investment in time and resources - young people will need support to participate in this dialogue. Capacity work will be central to this engagement. CRC would also stress that children from all the various socio-economic backgrounds engage in this work collectively to increase the sharing of different experiences.

9.2. *Community Memorials*

9.2.1. CRC is particularly interested in the shared space debate. There is a need to remember what has happened during the conflict but it is how this is done within the context of shared space. Generic principles were set out for the planning and erecting memorials, however CRC would have liked detailed guidance and criteria e.g. dialogue, consultation at community level (cross-community), who should be involved, what statutory organisations need to consider. Ultimately we need to create welcoming, accessible, good quality and safe spaces where people and communities do not feel excluded or isolated. This is particularly relevant given the current consultation by DOE on the Reform of the Planning Service and the transfer of particular powers to local government. In this response CRC recommended that major and local developments should include good relations objectives and mechanisms to monitor the impact/contribution to reconciliation and shared spaces, and that there should be the promotion of a common good and a distinctive sense of locality that all can share. CRC recognises the huge challenge to this process being the ability to design and develop space that is welcoming to all. Leadership is central to this process, particularly where there are big majorities of one side there is a real need to ensure that members of minority communities feel at home. Localities should be developed as places that do not exclude people. This recommendation is equally relevant to local memorials and it is important to examine the impacts of local memorials on good relations and issues such as marking communal areas as unwelcoming places. This is not a desire to sanitise or neutralise an area of its identity but to raise awareness of the negative perceptions and the impacts it could have in terms of good relations, investment and community safety etc.

9.3. *Societal Memorial*

9.3.1. CRC is attracted to the concept of a memorial that remembers the past and acknowledges the hope for the future.

We are acutely aware that the development of a shared memorial seems unreachable for many at this time. Therefore any process will require a course of actions that involves all of society, key interested stakeholders, in particular the CVSNI and the forum. The development of a draft framework for this work would be beneficial.

9.4. Day of Reflection & Reconciliation

9.4.1. CRC supports Healing Through Remembering, a Private Day of Reflection and of the development of a pathway whereby it might become a Public Day that allows everyone to participate. This would represent a marker for how far society has moved forward. However, for this concept to grow, it must have a voluntary core. We therefore agree that politicians should not be forced to participate in this day at a formal level, but rather they should develop their own way of reflecting.

9.5. Ceremony

9.5.1. CRC believes a public ceremony ritual would be highly desirable but seeks clarity on how this would evolve.

9.6. Declaration

9.6.1. CRC feels that it would be appropriate to develop a set of symbolic statements as a precursor to any final declaration. There are still concerns about to who would sign the declaration and questions about how groups or individuals would be compelled to sign it. CRC would much rather see a rolling public monitoring of progress towards reconciliation and justice at particular stages of the process . noting both successes and future challenges.

10. Timeframe

10.1. CRC does not feel the proposed 5 year timeframe is can be imposed.

10.2. While we agree with the need to have a vision and an end goal we are also of the view that this process will not be completed in a single planned moment. Instead the process of dealing with the past will require continuing attention as well as delicate and sensitive handling. Further conversations are required with organisations currently involved in this work in order to get a more realistic perspective of timeframes. Obviously it will be essential to set objectives within an action plan and identify a period for reflection which should involve monitoring and evaluating achievements, progress and areas requiring further action. This should be undertaken in all four strands of the work of the Commission, and could involve both local and international examinations and reporting back to the various Commissioners and Governments involved in the process. We therefore believe that any institution or Commission should make recommendations on future work at the end of five years rather than drawing an arbitrary line underneath uncompleted work. A monitoring and evaluation process might record achievements and outcomes in order to influence any further recommendations.

10.3. This is particularly relevant given the reality that many victims and survivors have only recently come forward requiring support. This

may become more apparent as victims & survivors receive new information on the circumstances of the deaths of family members as a result of historical enquiry and information recovery processes. There is a growth in the number of voluntary self-help groups being set up particularly to undertake befriending work (most noticeable in the West). In addition, ex-service groups (UDR, RUC, etc.) have increased in number over the past 2 years, requesting support for respite, befriending and welfare assistance. It is clear that, many new groups have been recently established, there remains a great need for support and resources to meet the needs of our community.

11. Gaps

11.1. Injured

11.1.1. The report failed to address those who were injured or bereaved during the conflict. These individuals feel that they have been forgotten about in this current process and CRC would like to see the inclusion of this group within any final recommendations.

11.2. Gender issues

11.2.1. Many key constituents were identified in the report but CRC feels there should be a stronger reflection of the particular gender impact of the conflict. Women had distinctive experiences of the conflict i.e. sole responsibility in organising and managing family life, their roles in local communities, as ex-combatants, domestic violence, stress and coping. The report failed to properly consider the role of women and the impact of the conflict on women and this needs to be addressed.

11.3. Language

11.3.1. It is important to recognise that whilst many parts of society, communities and individuals are ready to move forward there are many others that have not had the opportunity to engage on issues which explore reconciliation, justice and truth. Government should acknowledge the many experiences and opinions that make up society and not assume that everyone is ready to move forward.

11.4. Holistic approach

11.4.1. CRC is concerned that there may be a tendency to develop and implement recommendations relating to reconciliation and storytelling etc. These are not necessarily the easy options, but they may be the compromise to set the train in motion. CRC supports a holistic approach to the past, and would stress the need to deal with truth, information recovery and justice issues at the same time as reconciliation activities. A piecemeal approach would create a hierarchy of strands whereas they should compliment each other and add value to the work of other. Reconciliation must not become the enemy of truth and justice and vice versa. Any approach which wants to address the past must seek to deliver truth and justice, tackle societal inequalities and build better relations between institutions, groups, communities and individuals. A fragmented approach will only

give rise to frustration and resentment, and the very real possibility of the re-visiting of the conflict to our society.

12. Next Steps

- 12.1. In the current political environment CRC is unsure if, how or when the report or any subsequent proposals will be adopted and implemented. Primarily the Community Relations CRC wants to see further dialogue and debate on all the recommendations contained in the report and decisions made on how to move the process forward. This should happen regardless of who is in government, either at Westminster or the Assembly.
- 12.2. The devolved Assembly as a corporate body has yet to examine the report in its entirety and it is unfortunate that the Assembly discussion started and ended with the recommendation relating to the recognition payment. This recommendation has proven to be one of the most controversial and it has since been removed as an option by the Secretary of State. Leadership will be central to this and other debates. CRC fully recognises the difficulties the past poses for many groups and individuals but unless we face the harsh realities of what happened in our society there is little chance of gaining truth, justice and reconciliation.
- 12.3. Nevertheless, this consultation exercise is a positive step in the debate for examining and dealing with our past. The NIO need build on these recommendations and produce a framework to deal with the past.
- 12.4. It is extremely important recommendations are produced that allow society to address the past and set a new direction for public policy.
- 12.5. Given that CRC has been specifically mentioned in the Report and the implications for its work in the event of any Commission or Forum, CRC would like to meet with the NIO over the next few months to discuss this submission in more detail.

13. Conclusion

- 13.1. There are no easy solutions, and at a recent CRC Conference it was quite clear that no single view exists with regards to this report within the Victims and Survivors sector. There are diverse opinions as to the best way forward; but the decision about what kind of future we want is deeply dependent on how we look at the past and face into the cruelties, exclusions and denials that worked out in so many parts of our society. The past cannot be reversed but it does need to be stopped and acknowledged. We need to dare to name the injustices and be mindful of profound disagreement, but most importantly we need to ensure the right of everyone to be included. Finally there must be a commitment to do something. Doing nothing is not justifiable option.