



An Roinn Gnóthaí
Eachtracha agus Trádála
Department of
Foreign Affairs and Trade

Government of Ireland implementation of Stormont House Agreement legacy framework

The Ely Centre
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Irish Government role



Stormont House Agreement sets out the role / responsibilities of the Irish Government in respect of the legacy framework:

- *Historical Investigations Unit*
- *Independent Commission for Information Retrieval*
- *Oral History Archive*
- *Implementation and Reconciliation Group*

- *Legacy inquest function also referenced in SHA*

1. Cooperation with the HIU



- **Criminal investigations:**
 - *Garda - HIU cooperation: Mutual Legal Assistance*
 - Same framework for **Garda-PSNI** cooperation
 - No new legislation required, **established system**
 - Enables broad **investigative cooperation**
 - Operates **IRL-NI** and **NI-IRL**
- **Non-criminal investigations:**
 - *Amendment to Garda Síochána Act 2005*

1. Cooperation with the HIU



- Irish Government committed to **full co-operation** with the HIU including **full disclosure**
- Disclosure must be **legal** - protect life / fundamental rights / security of state
- Same obligations apply for current **cooperation with PSNI**
- Same framework for Garda requests to **PSNI and HIU**

1. Historical Investigations Unit



Different disclosure provisions as compared with the UK?:

- Material provided by Gardai **will cross an international border**, unlike material from UK agencies
- **Different jurisdiction:** Garda Commissioner must uphold duties, including to **protect life and fundamental rights**
- Cannot be ‘outsourced’

1. Historical Investigations Unit



Review / appeal provisions:

Five elements:

- Any redaction - **reasons will be given** to the HIU Director. Cases will be rare.
- **Judicial arrangement** for Garda Commissioner and HIU Director in decision-making process
- **SHA Bill Clause 18(5): HIU family reports must:**
 - *state whether information from Irish authorities was provided in redacted form*
 - *include a statement about cooperation by the Irish authorities*
- **Judicial Review** by HIU Director and/or family of Garda Commissioner decision
- **Irish Government does not have any role in reviewing HIU family reports**, even if they contain material provided by Irish authorities

2. Inquests – current position



- Coroner's inquests into deaths connected with the Troubles - **referenced in the Stormont House Agreement**
- Cooperation from Gardai - inquests not a criminal investigation, so **Mutual Legal Assistance framework does not apply**
- Current cooperation through **Ministerial regulation**

2. Inquests – enhanced cooperation



- New legislation
- Draft general scheme - November 2017
- **Criminal Justice International Cooperation Bill:**
 - *Northern Ireland Coroner to **access testimony** in the High Court from Garda officers in respect of Legacy Inquests*
 - *Garda cooperation with non-law enforcement agencies – enhanced basis for **transfers of documentation to NI Coroner***

3. Independent Commission on Information Retrieval



- **Cross-border body**
- **Access** for families and information sought, regardless of location.
- **International agreement** between Irish and UK Governments – 2015
- **Legislation** in UK and Ireland to establish the ICIR in each jurisdiction
- Preparation of Irish legislation is advanced:
 - *Provide ICIR with necessary **immunities** and **penalties** for unauthorised disclosure*
 - *ICIR under a **duty to protect life** in the exercise of its functions*

4. Oral History Archive



- **OHA accessible to people regardless of location – throughout UK and Ireland**
- **No legislation required** in Ireland to allow victims and survivors to contribute to the OHA
- **Irish Government will legislate as required to protect contributors from defamation and other proceedings**

5. Implementation and Reconciliation Group



- **No legislation required in Ireland** for the establishment of the IRG
- **Irish Government will nominate one member** of the IRG (11 members in total)
- **Statement of acknowledgment** at the end of the IRG's work

Emerging themes



- Importance of **HIU-Garda cooperation** for investigations in both jurisdictions
- Concern to see **comparable access** / provision
- Interest in **ICIR**, how will it work / kinds of information / verification
- Wish for pro-active role by **OHA** to gather and share experiences
- Role for **IRG** - reconciliation



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Thank you

Victims and Survivors Forum
Belfast, 24 August 2018