

# Northern Ireland Affairs Committee

## Oral evidence: The Government's new approach to addressing the legacy of the past in Northern Ireland, HC 586

Wednesday 21 May 2025

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[Watch the meeting](#)

Members present: Chris Bloore; Claire Hanna; Leigh Ingham; Katrina Murray; Dr Al Pinkerton; Gavin Robinson; David Smith; Daniel Aldridge.

In the absence of the Chair, David Smith took the Chair.

Questions 148-201

### Witnesses

**I:** Sir Declan Morgan, Chief Commissioner, Independent Commission for Reconciliation and Information Recovery; Louise Warde Hunter, Chief Executive Officer and Commissioner, Independent Commission for Reconciliation and Information Recovery; Peter Sheridan CBE, Commissioner for Investigations, Independent Commission for Reconciliation and Information Recovery; Steven Bramley CBE, General Counsel, Independent Commission for Reconciliation and Information Recovery.

Written evidence from witnesses:

[\[LPNI0020\]](#) Independent Commission for Reconciliation and Information Recovery (ICRIR)

## Examination of witnesses

Witnesses: Sir Declan Morgan, Louise Warde Hunter, Peter Sheridan and Steven Bramley.

Q148 **Chair:** Good morning, everyone. Welcome to the Northern Ireland Affairs Committee—to Members and our guests. We are looking at the legacy of the Troubles this morning. I will ask our guests to introduce themselves.

**Peter Sheridan:** I am Peter Sheridan. I am the commissioner for investigations with the Commission.

**Sir Declan Morgan:** I am Declan Morgan. I am the chief commissioner.

**Louise Warde Hunter:** I am Louise Warde Hunter, chief executive and commissioner.

**Steven Bramley:** I am Steven Bramley, general counsel.

**Sir Declan Morgan:** Chair, I just want, literally for a few seconds, to set out four propositions. The first is that our focus is on finding a mechanism to ensure we achieve the unvarnished truth for victims and survivors. Secondly, the High Court and the Court of Appeal in Northern Ireland have found that we are capable of doing this in an Article 2-compliant way in most, but not all, cases. Thirdly, the litigation that has occurred in Northern Ireland has been very hard on families, and with hindsight, I wonder whether we could all, as lawyers, have done better in dealing with it. Fourthly, this is a reset moment. We need to make the changes to this imperfect legislation that will support the two Governments and help us in the project of finding the truth.

Q149 **Chair:** Thank you. I will take the first question, which is to you in the first instance, Sir Declan. We have heard a range of evidence to suggest that there is a lack of confidence in ICRIR, in part because of the perception, at least, that the purpose of the Legacy Act was to stop investigations into veterans. How can the Commission address those issues and gain and retain the trust of all communities?

**Sir Declan Morgan:** Part of the answer is that in this environment, it is very difficult to obtain the confidence of absolutely everybody in legacy projects. We understand and have heard that people are disappointed about the fact that we have committed to using this legacy mechanism, and I understand their hurt. These are people who were very shabbily treated by the legislation that was brought in, which ended any prospect of both inquests and civil proceedings.

But from my point of view, I looked at the legislation not to see what it did that perhaps was wrong, but to see what it could do that would help. I think we have demonstrated that this legislation had the ability to provide answers for people. Over 160 people have now come to the Commission. We have over 60 investigations that are ongoing in relation to various cases. Those would not have happened if we had not looked at the



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opportunities that this legislation has provided. We can do all of those things in an Article 2-compliant way and in a way that will eventually secure the unvarnished truth. By the end of this year, we will have over 100 investigations ongoing in relation to probably more than 150 deaths. By the time of the legislation, we expect that that number will have significantly increased, as will the number of people we have been able to help.

The choice was whether to help those people who were anxious to have an answer to what they wanted, or to stand back and say, "This legislation is not perfect." I don't make any apology for the fact that I decided that I wanted to help people. When people understand that and see what has happened and analyse it, I wonder whether the approach to the work of the Commission will be treated in such a negative light, particularly when the two Governments reach agreement on what they want to do.

**Q150 Chair:** Thank you, Sir Declan. Peter, you told the Assembly in February that you were willing to sit down with critics of the Commission to explain that you are not undertaking merely desktop reviews. Have you done that, and if so, what is the Commission's engagement strategy with its detractors, especially families?

**Peter Sheridan:** That offer is still open to anybody who wants to come to us. I am conscious that people said it is a light-touch review or a desktop review. Let me assure this Committee that it is absolutely not. Once a family has come to us and has decided that it wants the Commission to continue, the first thing I do is put it into what is called scoping or what would be known in the police as a cold case review. That will be a structured and objective review, free from previous biases of investigation.

We will look for new evidence, verify old evidence and identify investigative failures in it. We will re-examine forensics, and that will be the key to us, because witness evidence from the past is difficult, but there are new forensic opportunities, and we have already come across that in some of the investigations. We examine that for the latest trace evidence that you can use. We will look at continuity of evidence in old cases, conduct fresh searches on databases and use advancements in digital forensics. It is absolutely not a light-touch review. I am duty-bound under legislation to look into all the circumstances of the case. That is what we are doing.

Let me give you an example, because sometimes we talk in the round about all of this. As Sir Declan said, we have over 60 live investigations. That includes at the minute the death of five people in the bombing at the Horse and Groom public house on 5 October 1974, commonly called the Guildford pub bombings. It includes the death of Alexander Millar at Ardoyne bus centre in Belfast in 1975, when two gunmen entered the premises, asked for him by name and shot him in the head, chest and groin. It includes the death of Seamus Bradley, a 19-year-old IRA man who was shot dead by the army in Derry on Motorman. It includes the deaths of James and Ellen Sefton in Belfast in June 1990, shot dead by the IRA.

It includes the death of Rory O'Kelly, shot dead by the IRA in Coalisland in March 1977. It includes the death of William Marchant on the Shankill Road in Belfast in 1987, when a car pulled up alongside him and two gunmen opened fire. The IRA claimed responsibility, saying he was a leading member of the UVF. It includes the death of Judge Rory Conaghan by the IRA at his home in front of his family at 08.30 one morning. It includes the death of Kathleen O'Hagan in Greencastle, County Tyrone, in August 1994. She was seven months pregnant. Her baby also died in that attack, and it was claimed by the UVF.

I could continue into all of those 60 cases. People talk about confidence. There are over 160 people who have confidence. I fully recognise that we do not have the confidence of all of the victims and survivors out there. I hope, through the politics and the decisions by the courts, we get to a stage when more of those people have confidence to come to the Commission.

**Sir Declan Morgan:** Just for the record, on one of those cases, the Sefton case, Peter said that they had been shot, but in fact it was an under-car booby-trap bomb.

Q151 **Chair:** Thank you for that clarification. Before we move on to other Members, Sir Declan, on the question of the Commission's engagement strategy with its detractors, can you say a bit about what it has been doing to engage with the sceptical parties out there?

**Sir Declan Morgan:** At the start, I was able to engage. Before the legislation came into being, people were prepared to meet me and we had straightforward discussions, but as the legislation and litigation started, things became more difficult. Just before the litigation started, there was an event at Queen's University about legacy as a whole. I asked to attend, and I was very politely asked not to come because it was going to be used as a strategy meeting for various groups. Since then, although I have on occasion invited those who were protesting, in particular, to come to the Commission to speak to us, there are groups that at the moment, because of the litigation, feel it would be inappropriate to do so.

We have engaged very widely with a lot of other groups who have been happy to speak to us. We have spoken to the veterans community in various regards both here and in Northern Ireland. We have spoken to a number of groups, particularly around the border areas in Northern Ireland, where a lot of the deaths occurred, and we have sought to engage within the community, too. I recently did a talk with a Methodist grouping in Knocknagoney about the work we are doing as part of our outreach.

Certainly, one of the things that your Committee has been brilliant at is gathering in a wide range of views. The message for all of us is that, once you have finished your work, maybe we should all sit down together to see what we can agree and what we can't.

**Chair:** Thank you, Sir Declan. On that note, I pass over to Claire Hanna.

Q152 **Claire Hanna:** Thank you very much for coming before us. I accept that



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we are all trying to move forward and shape a regime, or a set of processes, that can get people the unvarnished truth, as you say. I am not going to look backwards, but I hope you will acknowledge that referring to critiques as unwarranted criticism, when a number of those criticisms were upheld by the Court of Appeal, didn't help, in terms of the tone of the engagement. I am very happy for you to come back in; I am not hoping to relitigate.

**Sir Declan Morgan:** I am not necessarily going to take issue with the fact that the litigation has been very difficult all round. It has been very difficult for families. For us, the decision of the Court of Appeal, changing the position of the first instance court, created a problem for us that we have to acknowledge. At the moment, the Court of Appeal has indicated that there are certain types of investigations that we cannot complete to an Article 2 standard.

I think there were unwarranted criticisms. I have seen people come before you and say that we do light-touch reviews. What we do is a criminal investigation, similar to that carried out by the Met when they are looking at cold cases. We remain in criminal mode, with a view to prosecution, until such time as we come to the conclusion that there is no real prospect of a prosecution in the case. That is not a light-touch review, and we have indicated that to some people who still, I am afraid, describe it as a light-touch review. That is difficult from my point of view, because I don't want to get into an argy-bargy with people who really ought to know better, but holding your tongue can sometimes be a little difficult.

You have also had people come in here and tell you that there might be one Kenova person among our investigators. There are 30 people from Kenova among our investigators. If the person who told you that had actually accepted our invitations to talk to them, they would have been able to tell you that, but they didn't.

Q153 **Claire Hanna:** I am hoping to get into some of the experience that you have gained through this and other processes and how it can be applied going forward. In your submission to us, you outline a number of reforms that you think could improve ICRIR's effectiveness. Have the Government engaged with you effectively? Are there headline changes that you anticipate seeing in any new legislation?

**Sir Declan Morgan:** You will know that I have spoken loudly about the need for Ireland to be involved in providing information, because we are an information recovery body. I think the fact that Ireland is now engaged with the UK Government in this process will be very helpful.

In terms of what I want from the legislation, I want to see space for an Irish commissioner on the Commission, because it seems to me that if Ireland is providing the information, they ought to have somebody there who will be able to speak up for Ireland's proper national security and other protection interests. We have IDPs, information disclosure protocols, with the security service and the PSNI, and I want to see an IDP with the relevant authorities in the Republic of Ireland as a way forward. Again,



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that is not part of the legislation, but it shows the commitment that you require if you are going to make this work. If we do not get the information from Ireland, there will always be questions. I think the signs of the discussions that are ongoing and the way in which the two Governments are now working together suggest that something of that order may well come about.

**Q154 Claire Hanna:** I think colleagues are going to come back on the issues around disclosure and commissioners. Given that the Court of Appeal has found that in the current form, some of your investigations are not Article 2-compliant, particularly around disclosure and next of kin participation, do you accept that in this context—where we currently are and with understandable pressures of time—Bridie Brown is still well within her rights to pursue a public inquiry into the murder of her husband Sean?

**Sir Declan Morgan:** Obviously, anybody is within their rights to pursue a public inquiry, particularly if they are advised by their lawyers that that is the right way to go. I cannot comment on what the Secretary of State is going to do in relation to that. That is obviously a matter for him. I could tell you, if you want, what we would do if the Brown case was referred to us. I am happy to tell you that if you want.

**Q155 Claire Hanna:** But can you understand, given that successive courts have said and acknowledged that the current processes are not compliant, that you could retrospectively have challenges from families whose cases have been progressed under the current procedures?

**Sir Declan Morgan:** I can understand that. As I say, if you want me to tell you what we would do and how it would be Article 2-compliant, I would be happy to do that.

**Q156 Claire Hanna:** The court has found that the processes are not currently, and the new regime is not in place—

**Sir Declan Morgan:** Okay, I agree with that, but if the case came to us, we would do what we'd do in any case. We would carry out a cold case review. We would carry out a scoping exercise, treat the case as a criminal investigation and gather all the evidence in relation to that, which would take the time that it would take.

But I agree that we could not do the next step, which is subsequent to that, once the terms of reference had been set, and up to that point, we are definitely Article 2-compliant. The next bit is, having identified what the issues are, to then organise a hearing with proper representation by lawyers in relation to that, while also understanding that the sensitive information arrangements, in my view, need to be reviewed. The Commission needs to be able to exercise proper challenge in relation to those. Those two things are probably the subject of amendment to the litigation, which will have to be looked at.

**Claire Hanna:** I am going to come back to disclosure, but I am aware that colleagues want to get in.

**Q157 Gavin Robinson:** Good morning to you all. Sir Declan, you mentioned in



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your opening remarks that you had four propositions to give to us. The last one—to paraphrase in a non-verbatim way, in case I am pulled up by a former member of the judiciary—was a reset moment in which you hope to support two Governments in where they land. I think you also reflected that where we go is a matter for the Secretary of State. How much of an indication can you give our Committee about the engagement you have had with the Northern Ireland Office on their plans for augmentation? How confident or comfortable are you with those plans?

**Sir Declan Morgan:** I think it is probably better for me to hand that to Louise and Steven, because they are the two who have been directly involved in the discussions.

**Louise Warde Hunter:** Steven might pick up on some of the detail, but in response to your question, Gavin, we have had ongoing cordial and robust conversations with those officials in NIO who are seeking to examine the policy and ensure that the subsequent legislation accords with that policy. There are a couple of key things in there. One, to restate what Sir Declan has already said, is that we are fully committed to the issue of reform—to strengthen in order to deliver for victims, survivors and families. That has informed our engagement with the NIO throughout. If I may pass briefly to Steven, he might give you a flavour of some of the key areas that we have discussed.

**Steven Bramley:** In my role, I have seen the shortcomings of the current Act. That has been the subject of our discussions with the Northern Ireland Office. The courts have highlighted those and so have we. We have interpreted the Act creatively where we think it is right to do so. Later today, we will publish the template for our information disclosure protocol, which Declan talked about when he mentioned IDPs. Those protocols are evolving frameworks for managing sensitive disclosure with agencies such as the Police Service of Northern Ireland and MI5. Enhanced inquisitorial proceedings, known by several people as EIPs, are another example of our creative approach. We want a human rights-compliant version of EIPs put into law. We are also publishing today a summary update of our framework for promotion of reconciliation.

The Act's abstract legal objective is now a procedural organisational duty. We are led by law and we are ready for reform. We are eager to assist Parliament in shaping new legislation. In our submission, we mentioned a number of areas for reform. Those include greater independent oversight; a statutory voice for victims and survivors; statutory investigations—not reviews, light-touch or otherwise; a statutory conflict of interest policy; a self-initiation power where there is a thematic link between different events and a power for Chief Constables to refer cases directly to us when new evidence comes to light. There is a lot for us to discuss and think about. As I say, we are ready for reform and we welcome it.

Q158 **Gavin Robinson:** Have you found any resistance to those propositions from the Northern Ireland Office?

**Steven Bramley:** We are continuing to discuss all those issues with them. I think it is probably best for me to say that it is for Government to respond.

Q159 **Gavin Robinson:** We will hear from Government in time, but this is your opportunity to let us know if there are areas that you feel the process could benefit greatly, but where there is reticence or reluctance on the part of the Northern Ireland Office and the state?

**Steven Bramley:** We think the Act can benefit from improvement in all those areas. We are an independent body; we have put all those points to the Northern Ireland Office and we are having very positive, constructive discussions.

Q160 **Gavin Robinson:** You mentioned the PSNI and the suggestion that it should be able to refer into ICRIR. You are aware that there are suggestions that other organisations, such as the Police Ombudsman's office, should similarly be empowered to do so. I assume that there would be no reticence around the expansion of that list.

**Steven Bramley:** I think we are open to all constructive suggestions that are made, from whichever quarter, whether they are made to us or directly to the Executive.

Q161 **Gavin Robinson:** I want to ask about the Stormont House agreement, which we hear about often. People will say that no political party supported the Legacy Act, but very rarely will you hear that that was for different reasons. So, too, you will find people who say that there was unanimity around Stormont House, but there clearly was not. One element of the Stormont House agreement that is frequently referred to—it is separate from ICRIR—is that that agreement had a firewall between information retrieval and investigations. Do you feel that is a vulnerability in your process that needs to be amended?

**Sir Declan Morgan:** I don't think it is a vulnerability. We have looked into whether, if victims want to meet perpetrators or their representatives, there should be a mechanism for them to do so. The first thing about anything that, as it were, goes beyond the report that we produce is that it must be victim-led. It is not for the perpetrator to make any decision; it must be victim-led.

On the second thing, we had our external assurance group reflect on how this might be done and what the mechanisms might be, and the advice back to us was that it is certainly worth thinking about something after the report has been prepared, whereby there might be a way to enable some kind of meeting between the victim and the perpetrator. But the advice is that you need to be astonishingly careful about it, because the danger is that you will retraumatise the victim.

If it is going to be contemplated, I would have thought the most sensible thing to do is to think carefully about it and then to run something as a pilot rather than just put it into the legislation wholesale. I cannot overemphasise the advice to us from the external assurance group—which

included some experienced people in this territory—that you need to be very careful.

**Q162 Gavin Robinson:** Two things arise from that. First, did your external assurance group indicate what impact a separation of the functions would have on timeliness, process, timeline and the effective delivery of answers one way or another for families? Secondly, and perhaps more fundamentally, you have the presence of an external assurance group, yet we have heard ad nauseam that the one thing you lack is external oversight à la Kenova. Could you address the fundamental dichotomy in people suggesting that you should have something that you have in all but name?

**Sir Declan Morgan:** We put the external assurance group in place ourselves, because we understand and recognise that external assurance for an organisation of this sort is absolutely critical. If, as I think is possibly the intention, oversight at a statutory level is going to replace the external assurance group, we are more than happy about that. We felt that we needed an external assurance group to do this.

In terms of your question about finality, that is one of the difficulties about going down the route of having something beyond the report that would be prepared as a result of the investigation that we carry out. The other side of it is that, as I said at the start, whatever we did, it had to be victim-led. If victims come to us and that is what they want to do, and we could put in place something that might assist in relation to it, I think we have an obligation to think carefully about that. Peter has some direct experience that he can maybe recount.

**Peter Sheridan:** I will come to that, but to answer the question about the separation first, there are of course advantages and disadvantages to all these things, but if the victim and their choice are put first, that is important.

Let us take an example of separation. I am carrying out the criminal investigations, which have to happen first. I present the evidence to Sir Declan and his team, and they write a findings report to say what happened. The requesting family member then goes to the information-recovery side. Let us say that some people who were formerly in paramilitary organisations come and give information. First of all, how is that verified? In respect of the bodies of the disappeared, it is easily verified, because the body is recovered if that information is correct. But how is the information verified and who verifies it? What if it is different from the report we have just written? Does that mean that my investigation is no longer Article 2-compliant because it did not take account of that information?

But I understand the importance of this. When I was chief executive of Co-operation Ireland, a widow came to me—I did not know her—and wanted to meet the perpetrator of her husband's murder. I did not know him either, but through a process, I got the two of them together. I went into



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the room with them. I said, "Look, I feel that this is a private conversation," and the widow said to me, "No, I want you to stay."

I have never broken the confidence of what was said between them in that room, but two things struck me about it: first, how respectful the conversation was, even though this person had been involved in the murder of her husband, and secondly, the questions this lady was asking. She was not asking what I, as an investigator, would have thought. She was asking the simple things: "Were you following our kids to school at the weekend? Did you follow them to the swimming pool? Were you looking through our windows at night-time?" These things were with her for over 40 years, and she ran them off. It was not that she somehow thought about them on the day; they had been on her mind. He answered them honestly, and then told his own story. I left with the two of them embracing.

That was one sense of reconciliation for those people. Now, not every victim wants to meet the perpetrator, but there are other opportunities. That is one of the reasons why I put my hand up to apply for the Commission: I could see that there are other possibilities in it.

**Gavin Robinson:** Thank you. I will come back later to issues around Irish Government involvement and autonomy.

Q163 **Katrina Murray:** Thank you all for coming today; it has been very interesting to hear your responses so far. Steven, you made a point about the creative interpretation of the law, but said there are some things that you cannot be creative about. The Legacy Act that created ICRIR, has been deemed, particularly around the concept of conditional immunity for people coming to it with information, to be incompatible with the ECHR. That is not a criticism of any of the individuals in role; it is about the Act itself. How do you envisage truth recovery, particularly from non-state actors, being pursued now that conditional immunity is effectively off the table?

**Steven Bramley:** Obviously, we have a wide range of information-gathering powers. Certainly, we have extraordinarily wide—on the face of the statute, unlimited—powers to gather information from Government, law enforcement, the military and the intelligence agencies. That can be useful when we are engaging with non-state actors.

We also have a separate power to compel answers from individuals, companies or unincorporated associations without fear of self-incrimination. We can use that power at the right time and in the appropriate case. In addition to all that, we have officers who are designated with all the powers and privileges of a constable. We want to ensure that, in exercising those powers in a criminal investigation, we have exactly the same powers as a police officer would have. In all those respects, we can obtain information from non-state actors, using our powers under the Act as it is.



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**Sir Declan Morgan:** Could I add a supplementary? It is important to recognise what we are talking about when we talk about people who want information. These people have had virtually no information about their loved ones at all. They have not been told anything about the police investigation, and they have not really been told anything about what was in the inquest. The way they have been treated is, by modern standards, shocking. For some people, all they know are the bare events of what happened; they do not know anything about the rest. For them, the information that we can provide is astonishingly new, informative and helpful.

The other thing on perpetrators that I think it is important to point out is that quite a number of people were convicted of serious offences in relation to what happened in the Troubles. Certainly for those people, there is no issue about criminality in terms of them answering questions and no reason why we should not pursue them to seek to obtain answers.

Q164 **Katrina Murray:** There are two things that always come back to me on this, particularly when we are talking about truth. Prior to my election, I was a trade union representative, and there was always going to be one more version of the truth than the number of people involved in the matter. Particularly when we are trying to get to a truth finding, and if you are continuing a criminal investigation, it is basically on the basis of meeting the threshold of "beyond reasonable doubt", or, "This is probably balanced. We can pretty much gear the information we have found out, if it is not able to meet those thresholds." I might be wrong on that.

**Sir Declan Morgan:** No, that's right.

**Katrina Murray:** But it is then dependent on particularly that range of paramilitary organisations, which Peter referred to earlier, in the caseload that you are already maintaining, actually coming forward and people saying, "If we are going to get resolution for these victims, they need to be able to understand what has been going on from those paramilitary organisations." How do you get that information forward to them in a way that gets that cut-through?

**Sir Declan Morgan:** I do not think you were there at the time, but I spoke to the Northern Ireland Affairs Committee way back in the day when the legislation was working its way through about the conditional immunity provisions. In my view, the conditional immunity provisions were a façade that hid what was in practice going to happen. The immunity provisions, in my view, were likely to be used only by people who were brought in for interview with their solicitor beside them and, as a result of the interview, were told by the solicitor, "Look, I think you're going to get prosecuted here and you'll go down. In those circumstances, you might be best just telling the truth and getting off." But if you were interviewed and the solicitor came out and said, "Well, they've got nothing; don't worry about it," nothing would have been said.

I do not think the immunity provisions were actually going to provide any meaningful information anyway, because we have not seen from the



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paramilitaries anything to indicate that they recognise their responsibilities. Of course, if the paramilitaries do indicate that they want to participate in this arrangement, that would be another plus for everybody.

**Steven Bramley:** Of course, there are other means of getting to the truth than simply interviewing people and asking them to tell you the truth. There are provisions in the Act about biometric material and ensuring that DNA evidence and profiles are not destroyed where they otherwise would be. There are other means of getting to the truth, which I would not want the Committee to overlook.

Q165 **Katrina Murray:** I will move on to one other point. Given the challenges that you have had, within your time of operation so far, with being able to get trust in and engagement with ICRIR, is it tenable to retain the five-year limit for people to request the Commission to undertake an investigation?

**Louise Warde Hunter:** Declan said at the beginning that this is a reset moment. If we are to serve victims, survivors and families fully in ramping up into a new regime, and governance is to be really at the heart of the oversight and scrutiny, giving people confidence, then no doubt Government will give very full consideration to whether they will indeed, in the next Bill, extend that. I go back to this question: why are we here? We are here to serve families and victims who have been poorly served in the past.

Q166 **Dr Pinkerton:** Excuse my momentary absence from the room earlier; I hope this issue was not covered while I was away. One thing that we know from the Secretary of State is that he will legislate to ensure that certain inquests, involving particularly sensitive information and unable to conclude through the coronial system, will be processed through ICRIR. Perhaps we can start with Louise and Declan. Why do you feel that is necessary?

**Sir Declan Morgan:** Why is it necessary?

**Dr Pinkerton:** Yes.

**Sir Declan Morgan:** I cannot speak for the Secretary of State, who obviously does consider it necessary. I can certainly talk about some elements of this. Whatever we do, there is one thing we must have at the end. For victims and survivors, whether they have a public inquiry, an inquest or come to the Commission, we must ensure that there is no hierarchy of victims.

In other words, we must ensure that the truth they get from the process is of the same standing—the unvarnished truth—and that whatever route we use, we have got to the bottom line, and that you do not get a better outcome by going to one or the other. It is important that all of us who are engaged in any of these arrangements ensure that the outcome is what it says on the tin: the unvarnished truth.



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Let me look, if I can, at what would happen with the enhanced inquisitorial proceedings if they came to us. I did some of this when I was talking to Ms Hanna about what would happen in the Brown case. In every case that we get in, we spend a short time with the case support team to ensure that people understand what they are letting themselves in for, because it can be traumatic for the people involved.

The next step is to appoint a senior investigating officer in the case, so that the investigation can begin. The investigation will involve the calling in of information, using our powers under section 5 in relation to public authorities and, if necessary, section 14 powers in relation to private individuals to produce documentation. The investigation will then bring that documentation in, conduct an analysis of the documentation and maybe supplement it in some cases with further inquiries.

That would lead to the terms of reference for going forward. Those terms of reference would look at whether this is to be taken forward as a criminal case or whether there are clear indications that a criminal case is not going to be a runner and, therefore, it should be taken forward as a case where we would use not criminal powers but Commission powers to move forward.

During that process, we have to involve the families as we go along. Every two to three months we would have a meeting with the family and the investigators to ensure they understand where things have got to. If you are going to an EIP it is because you are not going to a criminal trial. What would happen at that stage, particularly if there are new governance arrangements where you have a non-executive chair, who would not necessarily be a judge, as the head of the Commission, you would have one or a group of judges at the tail end of the Commission who will be responsible for producing the report.

What would happen at that stage is that the terms of reference would allow you to identify the matters and issues that needed to be addressed. The findings team and the judge could then draw up an analysis of what they needed to investigate. That is likely to be significantly less than some of the material that needs to be investigated in an inquest, because they have to go through a lot of procedural stuff, which in this way would not be necessary.

There would be a hearing; there would thereafter be a draft report. Anybody criticised would have an opportunity to make representations about that. Any family member would have an opportunity to look at a draft of the report and make suggestions in relation to it, but ultimately whoever the appointed judge was would take responsibility for producing the outcome.

When we come to the outcome, instead of necessarily just doing it as a court handing down, we have offered a range of ways that people might want to do it. Some people might want to do it privately; some people might want a court-type hearing; some people might want to have a press conference; some people might want to have it streamed. We need to be

flexible about the way in which that happens, but the report will be public and in the public domain and available to people.

That is a short—probably too long—

**Q167 Dr Pinkerton:** That is incredibly helpful. May I offer you a counterpoint that we have heard in this Committee? We have heard evidence from various people criticising that particular proposal, using language such as “pseudo-inquest”, with “no court; no independent judge; families do not have access to their own lawyers; they do not have the same rights of disclosure; and the executive branch of Government can rewrite the judgment”. What would your response be?

**Sir Declan Morgan:** My response is that some of the people who were making those points to you are people who have declined to talk to us, and some are people who do not understand our processes. I have heard people talking to you about light-touch reviews. It is nothing like a light-touch review; it is a serious criminal investigation carried out by experienced police officers, 30 of them from Kenova, as I said, and a range of others with extensive investigative experience in the PSNI, and some in the RUC and in other organisations as well.

The other thing to bear in mind is this: we had to work out how we were going to do what we wanted to do within the financial envelope that we had for doing things. I do not know how much an inquest costs, but I know that when I was doing the Legacy Inquest Unit, we made an estimate of what we expected the expenditure to be. At that stage, our working assumption was that, on average, an inquest would cost us in the unit £1 million. In addition to that, we would probably have another £500,000 in relation to legal aid costs and other associated costs. We were operating on that basis, at about £1.5 million per inquest.

I will now talk to you about what we intend to do: we are looking at somewhere between 400—as a very minimum—and 800 investigations. If we were to do those by way of an inquest, we would need somewhere between, what, £600 million and £1.2 billion in order to do them. We therefore had to think about how to do that differently.

The way in which we have approached this is that, instead of investing our money in a court-based system primarily, we have invested our money in an investigator-based system. That makes a huge difference to the cost, but it does not actually undermine the ability to get at the unvarnished truth. That has been the key to making this work. Unless we have a mechanism like that, which can deliver within the financial envelope available, we are not going to be able to do it.

That was the task for us. That was the big thing that we had to sit down and work out. What we do is different. I suppose, if I were a lawyer, I might not be that keen on it, because it will make a difference to the extent to which lawyers will have a role, but they will have a role in cases like the EIP ones, where the investigation itself does not—or does not



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sufficiently—produce, or not in a sufficiently convincing way, the unvarnished truth.

**Q168 Dr Pinkerton:** That is a helpful point about the financial envelope and the need to work within it. The last point that I put to you, though, goes beyond the financial—this fear, or concern, that the “executive branch of Government can rewrite” judgments.

**Sir Declan Morgan:** First of all, there is no way that any independent judge is going to allow that to happen. That is the point of being an independent judge: you talk truth to power. I do not want to use rude language, but sometimes you have to tell them, “Go away!”—I do not want to say what was in my mind at the time. We will all be in a better position to be clear about this once the Supreme Court deals with the sensitive information point. We need to know what the law is, and then we need to think about applying it.

For myself, I am aware of the discussions we have had with Michael O’Flaherty, the United Nations Human Rights Commissioner, who was in Belfast recently. We had a chance to talk to him, as we did when he was in Strasbourg. He is coming over in September, I think, to take a look in particular at this national security issue.

We need to be careful about being prepared to challenge a classification of material that may be out of date. We need to be careful to make sure that we understand the national security interest at stake and whether it needs to be properly protected; where the Government are overprotective, we need to be able to challenge that. That is why we want to the power to do that.

**Q169 Dr Pinkerton:** That is really helpful. The last one from me is about benchmarking, so that we understand something of the EIP powers. From what you know, are those EIPs likely to have any greater power or authority than coroners already have, for example?

**Sir Declan Morgan:** They will have powers similar to coroners’ and those of public inquiries. One of the things that we need to think through is that in public inquiries, under the Inquiries Act, a Minister can issue a restriction notice, which would prevent the publication of information considered to be contrary to national security.

One of the things that we need to find out from the Supreme Court is that when you are looking at Article 2, when Article 2 is concerned with explaining to people what has happened, does the balance in relation to things such as restriction notices need to change? That is a very, very interesting point. Unfortunately, given my present involvement, I will not be allowed to sit in the case dealing with that. However, it is a very interesting point. If it is properly argued, it will make for a very interesting judgment.

**Q170 Claire Hanna:** I want to come back to disclosure. In September, the Court of Appeal said: “the court cannot itself permit disclosure of any sensitive material where the SOSNI’s”—the Secretary of State’s—



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"permission has been withheld...Overall...this regime offends against the proper aim of the ICIR" as an organisation "able to conduct their work free of State interference". Do you agree with that analysis? What do you think would be a better disclosure regime, going forward?

**Sir Declan Morgan:** The answer, Claire, is that I do not know. The reason I do not know is that I have not heard what the Supreme Court has to say. This issue is going to be before the Supreme Court. It bears not only on Commissions such as ourselves but on public inquiries generally. As I have said, the Inquiries Act 2005 has a provision that enables a Minister to issue a restriction notice.

The other thing to bear in mind is that the Jordan judgment itself says that national security has to be taken into account in all aspects of this. But I think the question is whether and how the Commission and/or whoever the decision maker is has a means to challenge and expose any overprotective restriction on disclosure.

Q171 **Claire Hanna:** Do we not have good working examples of people taking that balance into account? Would you agree with what the Chief Constable suggested to us—that the judiciary should weigh the balance of national security versus disclosure? Or should there be a regime in which the duty is on the legacy bodies to disclose unless there is a risk to life or to current lawful operational practices?

**Sir Declan Morgan:** I will be quite happy if the Supreme Court says that that is the way forward. I am also aware, of course, of some Supreme Court decisions, such as the Shamima Begum case, that make the point that national security is both a legal and a political matter. Whether the courts are in a position to deal with the political element is the question.

It is difficult for me to answer the question in circumstances where the very issue is itself going to be the subject of debate at the Supreme Court. As you know, no matter whether it is Jon Boutcher or myself, we will all have to do whatever the Supreme Court tells us we have to do.

Q172 **Claire Hanna:** But you have not given advice, or you have not engaged with the Secretary of State at the NIO on what you think it should look like?

**Sir Declan Morgan:** Until I see the colour of the Supreme Court's money, as it were, I do not think I am in a position to give any advice to anybody about what the outcome would be. But I am able to look at the present arrangements in relation to sensitive information and say that they are overly protective and clunky, and that they definitely need to change. Steven could talk to you more about that, if you wanted.

Q173 **Claire Hanna:** In your experience so far, do you have a sense that security services are interested in engaging with you completely and transparently?

**Sir Declan Morgan:** Certainly, the experience of disclosure from the security service after we put the IDP together so far has been good.

Q174 **Claire Hanna:** So you have engaged with the security services so far, and you have found that to be positive.

**Sir Declan Morgan:** What has happened with the security service is that we have agreed, and Jon has signed off, the IDP for the PSNI. We are now working through some clunky bits of that within a standard operating procedure—an SOP. That will not be a problem.

The security service has said to us, “We see the IDP. We are not taking issue with it at the moment; let’s work it for the next six to 12 months and see how it goes.” It is exactly the same IDP as we have with Jon and the PSNI, and so far, in a sense, the security service is doing what the IDP wants.

Jon has told us that he is not going to do anything because of Omagh, but he has given us the keys of the kingdom, in that he has allowed us to go in and use computers within PSNI to retrieve the information. That is where there is a bit of clunkiness, because some people have not got the message that that is what we are able to do, no matter how secret the information is. We might have to ask Jon to wave his wand and make sure that all of that goes away, but I have no concerns that it is going to create a problem.

Q175 **Claire Hanna:** I suppose it has been characterised in different ways by other bodies and others, in terms of their engagement on some of those matters, but I will leave it there.

**Sir Declan Morgan:** The only other thing I am going to say is that 20 years ago, Nuala O’Loan did not get the information that the coroner got in Sean Brown.

**Claire Hanna:** Absolutely not.

**Sir Declan Morgan:** The question is, does that indicate a change in the approach of the security service—that 20 years ago they did not provide the information and today, they did? I do not know.

Q176 **Claire Hanna:** I think we can give examples that are a lot more recent than 20 years ago of relevant material not being disclosed.

**Sir Declan Morgan:** Kenova is an example, in that there was information that did not get to Kenova, and there was an inquiry in relation to that. I am not naïve enough to think that you just stand back and say, “Well, undoubtedly the security service will give us everything they have.” Whether it is the security service or, indeed, the PSNI or the MOD or anybody else, we will need to look very closely to make sure—having looked at it—or whether we should be challenging the extent of information provided.

Q177 **Claire Hanna:** But we have had witnesses in the very recent past, including from Kenova, who gave a different account and a different character to their engagement on disclosure—on the information that they were able to access and disclose.

**Sir Declan Morgan:** Jon has had a major issue on disclosure.

**Claire Hanna:** And not just Jon—Kenova’s current leadership as well.

**Sir Declan Morgan:** There has been a major issue on disclosure. The issue that is before the Supreme Court is about what constitutes national security and who makes the decision in relation to whether or not it is dealt with. If the courts are to deal with it, how do they deal with the political aspect of national security? Those are the questions that the Supreme Court is going to have to address.

Q178 **Claire Hanna:** I suppose I would just say that there is no record of the political analysis of the security services being conducive to truth and reconciliation in our region. Their political analysis should not be elevated above the needs of those families and their lawful rights to information.

**Sir Declan Morgan:** As I have said, it is up to the Supreme Court. It is not up to me.

Q179 **Gavin Robinson:** I think that exchange, irrespective of the legal outcome of the Supreme Court’s adjudication, gives a reflection of the impact of a failure to disclose. It is fundamental to confidence in the process, and allows people to suggest conspiracies and cover-up even though they do not exist.

**Claire Hanna:** They do exist, though.

**Sir Declan Morgan:** I agree with that.

Q180 **Gavin Robinson:** No, there may be circumstances in which it is entirely legitimate to withhold information, but it will have an impact on confidence and whether people believe there are conspiracies. That is not a catch-all, but a potential. We cannot control what the Supreme Court decides, so my question is: is there a way in which experience can be taken from the special advocate process to instil confidence in families, even where there has been a refusal to disclose information that they would otherwise wish to see?

**Sir Declan Morgan:** The question is—if you want to put it another way—if there was a special advocate, possibly one chosen by the families, who was in the room and agreed that the information could not be disclosed, would that increase confidence? I suspect that in some cases it might, but in others it definitely would not, because no matter what was said, the fact that people didn’t get the information would undermine confidence.

That leads into another proposition. To some extent, it depends whether this becomes an endemic problem or something highly unusual. In other words, the onus will be on all of us to make this work. It seems to me that the Secretary of State, the security service and everybody else should be trying to make it work, but the onus will be on all of us to find forms of words to ensure that when these issues emerge, we are able to provide families with a sufficient indication of what happened to their loved one so they are satisfied that they have had the unvarnished truth.



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If we can do that in a very high number of cases, having the odd outlier, in which you have the back-up of possibly a special advocate agreeing that the material could not be disclosed, might not have such a great effect on public confidence. But if the proposition is that there will be lots of cases involving security service material, where essentially seven blank sheets of paper are all people are going to see, it is not going to work.

**Q181 Gavin Robinson:** Sir Declan, I want to move on to another series of questions, but I want to start it this way. You are chief commissioner. As chief commissioner, are you independent?

**Sir Declan Morgan:** I certainly feel independent, but I think it is quite extraordinary that the governance arrangements for the Commission would limit the pool of people from whom the chair and the chief commissioner can be selected by requiring them to have held high judicial office. Most organisations that have a chair will look round for somebody with experience of being a chair, rather than somebody who has experience of sitting in a chair.

**Q182 Gavin Robinson:** But the purpose of you being there as a senior judicial figure is, by very definition, the independence that comes with that role.

**Sir Declan Morgan:** I think you can enhance that independence if you have a non-executive chair, who does not have to be a judge—you would hope they would be somebody of some standing—and then at the end of the process you put in an independent judicial cohort. They are not part of the Commission; they are almost like people you bring in to do a public inquiry, and you leave them to be the independent end. I think that system improves the governance arrangements at the top by having a sensible arrangement for the selection of the chair. It also improves independence at the far end because the judges are independent and therefore, no matter what the Commission says, they are able to say, "Well, this isn't good enough."

**Q183 Gavin Robinson:** That is oversight, but the purpose of the initial question was to determine that, as chief commissioner, you are not there representing anybody.

**Sir Declan Morgan:** No.

**Q184 Gavin Robinson:** So I was surprised to hear you mention earlier that you believe there should be a commissioner for Ireland, and, as you went on to say, somebody who can speak up for Ireland's interests and their national security. Is that not a bit curious?

**Sir Declan Morgan:** I do not think so. I think that a commissioner is the way to do it, but just as there needs to be some mechanism for looking after the national security interests of the United Kingdom, there needs to be a mechanism if Ireland is going to provide information.

**Q185 Gavin Robinson:** To be clear, there is no commissioner representing the security services. There is no commissioner representing the national security interests of the Irish Republic or the UK Government.

**Sir Declan Morgan:** No, but you do have a Secretary of State who can exercise a veto over the disclosure of information.

Q186 **Gavin Robinson:** That is a separate point and why I want to focus on this. It seems curious that one of numerous commissioners would form that role as a commissioner.

**Sir Declan Morgan:** I am relaxed about the title that the person would have. My point is that there needs to be some mechanism within the Commission for ensuring that the disclosure of material, where it affects Ireland's national security interests, is balanced in exactly the same way as there is a mechanism for disclosure and UK national security interests. If you want to do that by having the relevant Irish Minister in Dublin making that decision, that is fine. I would prefer that there was somebody within the Commission from Ireland there so that the Commission would have the opportunity to engage with that person, whether through being a commissioner or some other separate representative. There needs to be somebody there to make that work, because otherwise I worry that information will not be forthcoming.

Q187 **Gavin Robinson:** I am worried about the contamination of commissioners. I invite you to reflect on the comments and to perhaps present it as needing a commissioner who understands Ireland, the Republic of Ireland and its state institutions in the same way that we have judges in the Supreme Court who understand the legal complexities of our jurisdiction but are not there to represent Northern Ireland's interests.

**Sir Declan Morgan:** You do need to have somebody somewhere. You cannot just say to Ireland, "Well, you have not got a national security interest in the same way that the UK has." They both have national security interests, and we have to find within the Commission a way of ensuring that those national security interests—

**Gavin Robinson:** I do not disagree with that clarification.

**Sir Declan Morgan:** I am perfectly happy to take your point that any commissioner who happens to come from Ireland and who is to bring context, is fine, but that the mechanism for ensuring the national security interest would have to lie somewhere else.

Q188 **Gavin Robinson:** More substantively, the Stormont House agreement envisaged an information retrieval body that would operate cross-jurisdictionally. How much preparatory work has been engaged to expand ICRIR in a way that would incorporate Republic of Ireland jurisdictional and national security issues? Do you feel that that will form a substantive part of that reset moment that was referred to earlier?

**Sir Declan Morgan:** I have been open about this publicly. I think that it is essential that this forms part of the reset moment. It is essential that all of those people, who for so long have wondered about what information Ireland holds in relation to what happened to their loved ones need, under this reset, to find out the answer to that question.

Q189 **Gavin Robinson:** Do you have any concerns about how that would work?



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Are the mechanics of that being explored at the moment in detail, or is it still just an aspiration on your part?

**Sir Declan Morgan:** It is not just an aspiration. The two Governments have been engaging in all sorts of things, and I am confident that they are alert to the issue. I have tried to make it as public as I can. I am still of a view that I could see a day when there's an IDP with the relevant authorities in the Republic of Ireland.

**Peter Sheridan:** We have been approached by people from the Republic of Ireland where deaths occurred there. Even though I have no jurisdiction, under the Act, I can still take those cases on.

Q190 **Gavin Robinson:** I am not pushing back against the notion. I am trying to get a sense of how far advanced those discussions are and what is left to do.

Finally, on this section—because the Chair is always curious to keep me going—on the Stormont committee that you appeared before, Sir Declan, you mentioned the need for Irish and international commissioners. Given the exchanges that we have just had, is there a danger that the Commission and commissioners morph into what you would expect of an external oversight body with international reflections and potentially Irish reflections? Do you need an international commissioner, or do you need international expertise on an oversight body like the external assurance body you already have?

**Sir Declan Morgan:** We have an international commissioner on our present body, Rogelio Alonso from Spain. The Act required us to have somebody with international experience. That is because they can raise the question when you are looking at how different folks have managed to address some of these issues. Rogelio has been very helpful in providing us with thoughts about different places where we had not thought of going to look for solutions. The value of having somebody with an international perspective on the Commission is something that we should look to replicate. If you are going to do that, I am not sure that the present quotient of seven commissioners is enough. I think you need a few more.

Q191 **Gavin Robinson:** On the international aspect of this, it sounds as if, if both Governments are going to agree a body that is capable of operating cross-jurisdictionally, it is going to have an international feel, like a treaty-type organisation. Perhaps Ms Warde Hunter could answer this: are there discussions actively ongoing about budgetary contributions from the Republic of Ireland Government?

**Louise Warde Hunter:** I do not think I could speak confidently to that point, Gavin. My focus in terms of funding, and my engagement with NIO, has largely been around issues within the very challenging fiscal environment that we have and the spending review. But I do not doubt that it may be on the table at some point at those levels.

Q192 **Leigh Ingham:** Thank you very much for giving evidence today; your answers have been really helpful. One of the things the Committee has heard numerous times is that Operation Kenova is seen as the exemplar



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model for this kind of work. Stakeholders that we have met, including the Wave Trauma Centre, said that the ICRIR structures and family support services do not compare with Kenova. What is your response to that comment?

Jon Boutcher, the former head of Kenova, has been lauded for his approach. We received this comment: "He spoke to every single person who was involved in his investigations. He instilled confidence and trust"—which was not there at the beginning, so it was a journey that he went on. He told them stuff, he told them what he was doing and he told them in advance about what he was doing. Does ICRIR have the leaders, structures and powers in place to replicate that model? What other elements of Kenova are ICRIR considering adopting or lobbying the Government to legislate for? That was a lot—there are three questions there.

**Sir Declan Morgan:** The first point I would make is that the criticisms of ICRIR that you have heard are not coming from the people who come to ICRIR. Those people have been welcoming of what we have been doing. We have included in our paper some of the comments that we are receiving. These people look upon us as a chance for something that they did not think they were going to have for a long time. It is very important to note, in assuming that victims are critical of what we are doing, that, in many cases, those victims are not aware of what we do or how we do it. We know that because of the number of people who come to you to say, for instance, that we do light-touch reviews. They have not looked at what we do. They do not understand what we do. I do not want to hog the answers to this, so I will hand over to others.

**Peter Sheridan:** Maybe I will pick up here, Leigh. Let me read to you a comment that somebody recently sent to me. This is from one of the requesting individuals: "Just a few quick words to essentially say thank you. I am aware this project is a plane being built whilst taking off and both of you have been amazing. Myself and"—the name of somebody else—"appreciate the meetings with the updates, your prompt responses to any queries we have and how considerate you have been in dealing with both this situation and our emotional responses. Keep up the good work." I get that constantly from the over 160 people who have come to us.

Jon Boutcher's deputy was Keith Surtees, who did the day-to-day investigation. Keith is my deputy. He does not change his spots overnight and somehow do it differently. He is doing the same as he did in Kenova. Kenova was different. It was very bespoke. It was about a state individual working for the state.

Our operation is very different in that we have people from all walks of life—veterans' families, police officers' families, members of the wider nationalist and unionist communities, and those from paramilitary organisations. The families who have come to us are very much broader than Kenova ever was. I understand that no police officer sat on Kenova,



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but it is very different for us, in the expanse of the work. Maybe Louise wants to come in.

**Louise Warde Hunter:** Forgive me—I do not wish to presume that, in your question, you are suggesting any deficit in the existing leadership.

**Leigh Ingham:** I think I am just repeating the evidence we have been given. That is what we are doing here—saying what has been said.

**Louise Warde Hunter:** If I were to talk about the issue of the backgrounds of my colleagues around me, and the long and distinguished public service that they have given, I think some people have had anxiety around, for example, the background—not simply of leaders within the organisation, but also of having officers who served in the RUC as part of that. Of course, we recognise that people are entitled to have that view, and there are people who may be anxious about, if they are bringing cases forward, asking for understanding around that.

We also recognise that the opposite is true: many people will be absolutely delighted to know that we have those from an RUC background as part of our workforce. They are a small proportion, I might add, but nonetheless they are there because they understand the circumstances and context of many of our cases. For me, this actually transcends the issue of simply leadership. It is much more about the diversity of our workforce and the experience we have.

Vitally, by using a victim-centred approach to our work—which we characterise as our trauma and resiliency-informed approach—and by looking at our conflict-of-interest approach, we can do what we were set up to do: to serve anyone who comes to us, regardless of their background and, I would also argue, regardless of their fears. That is because we can accommodate that within that and because we are unified as leaders of the organisation in being victim-centred in our approach.

**Steven Bramley:** Of course, we are looking to get self-initiation powers as well, so that where there is a thematic link with something we are already looking at, we can go where the evidence takes us. That is another thing we will have in common with Kenova.

I think we have—I think we were discussing—around 30 Kenova staff among our numbers, far greater than the number of people who were in the RUC.

**Sir Declan Morgan:** Three questions, four answers.

Q193 **Claire Hanna:** How many declarations, or potential conflicts of interest, have been made? Do any of those correspond to point 10 of your conflict-of-interest policy?

**Sir Declan Morgan:** Certainly, I have declared a conflict in relation to the death of Judge Rory Conaghan, because he was my mother's cousin—so I stepped back from that case in terms of the outcome.



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I am also aware that one of the assistant commissioners explained to me that somebody had come to ask about the involvement of RUC officers in their case. The assistant commissioner did exactly what we expect them to do—sat down with them to work through and explain what it is that we do. At the end of that process, the person indicated they were perfectly happy to proceed as was. Very few people indeed are coming to—

Q194 **Claire Hanna:** I am talking about investigators and staff.

**Peter Sheridan:** So what happens is that when you join the organisation, you make a declaration—it is a broader declaration than this—but in every investigation, people have to complete a conflict of interest. If they have a conflict of interest—

Q195 **Claire Hanna:** I am trying to get a sense of how many are being declared and how broad this is. I hear and understand your alternative perspective, but I am sure you can understand the anxiety that people have. In terms of creating confidence in a new body—which already has some substantial deficiencies—I am trying to understand how many conflicts of interest have been declared.

**Peter Sheridan:** Let me give you an example, because I think it helps to talk about the practical aspect. A case that came to us involved a search warrant that I had signed after a murder, way back in the 1990s. There is no way I would ever remember that. You just could not, given 30-odd years of service, remember everything that you have signed. In the examination of it, the investigators came to me and said, “We see your name on this.” I then completed a declaration of conflict of interest and said that on it.

**Claire Hanna:** I was trying to understand how widespread it is, but we have loads of ground to cover.

**Chair:** In the interests of time, we really need to move on, because we have a few questions we need to ask. Gavin Robinson?

Q196 **Gavin Robinson:** Thank you, Chair. In many ways, Ms Warde Hunter, you have jumped into answering the question I was going to ask, unnecessarily and disappointingly for me, but I think the answers have been clarificatory and helpful.

I have found some of the evidence that we have taken really disgusting on this issue. I have found it hugely prejudicial and personal—not to me, but personal to members of your staff. I have found it politically charged and based on perception from people who should know better; from individuals who would have perceived conflicts of interest in their own roles that they have performed over many years, from police authority to Police Ombudsman and all the rest. I do not accept that there is a conflict, but you could easily make the argument that there was a conflict. I want to give you the opportunity as chief executive of ICRIR—if anyone else wants to contribute, it is entirely a matter for them, but I do not want to personalise this—to answer, how difficult is it when you see other professionals that you have to work with on a daily basis on legacy issues

delving into prejudice and perception rather than challenging it, and suggesting that the perception is wrong and that the prejudice is wholly inappropriate?

**Louise Warde Hunter:** Thank you for the opportunity to answer that question. I go back to our core ethos as a values-led organisation. Our core values are impartiality, independence, openness, accountability and respect. I believe that it is particularly the first and the last of those that we seek to harness in those sorts of engagements. For those of us who are veterans of the public service, impartiality in your service is absolutely critical, as is respect.

I recognise that you have characterised some of the criticism and observations. Sir Declan commented earlier in the session on the factual inaccuracies. We are still being very respectful of the fact that people hold different opinions. Our mission, in terms of building trust and confidence, is to seek to correct factually, where we can, but in a respectful way. As Declan said earlier, there is a duty incumbent on us to continue to seek to clarify, engage and put the correct factual position forward on how we operate, the basis on which we do it, our policies and our procedures. Does it sting? Naturally. We are human beings. Is there a much more important focus—victims, survivors and families? Absolutely.

Q197 **Gavin Robinson:** There is a political part to this process. Clearly, it is being led by politicians, and the Secretary of State will bring forward his process. You have a duty of care to the people that work within ICRIR.

**Louise Warde Hunter:** I do.

**Gavin Robinson:** Can I ask you to express whether you have been disappointed or not by the almost silent indifference whenever prejudicial complaints are made on perception of conflict of interest?

**Louise Warde Hunter:** I beg your pardon. I missed one critical word. Was I disappointed in—

**Gavin Robinson:** The indifferent silence. I raise this issue quite regularly, but I rarely hear others challenge the prejudice that is laced through some of the issues raised around conflicts of interest.

**Louise Warde Hunter:** I go back to my earlier comments about how we stick firmly to the values of our organisation. When I joined, we talked about how our credibility as an organisation would be fundamentally based on two pillars, which are competence, or the ability to discharge what we do in an effective way, and the care with which we do it. That care applies to victims, survivors, families, witnesses and stakeholders but also to our own staff. We resolutely keep focusing on what is important, and I bow to those who will advocate more widely to try to create a more positive environment for us to function in.

**Peter Sheridan:** You talked about perception bias. Could I say this just for the record? I have said it in other forums. I will use the Brown case as an example. If there was a perception, just because I was visible in a



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different organisation, that the Brown family did not feel confident, then I would recuse myself in that way—even though it is based just on perception. I do think, in the wider context of things, as each of you move on in life, that we run down a slippery slope if you are going to be judged on perception rather than merit when going for a job.

**Claire Hanna:** We are though.

**Peter Sheridan:** It does not matter, Claire, whether you are in the GAA or the loyal order. If we are going to make decisions on perception bias, then I think we are in a dangerous place. Having said all that, I completely and utterly understand it, from some people's perspective. Despite the fact that I stand on my own integrity on this, I am still willing to step aside if it is important and if it would mean that any family could come to us in that way.

Q198 **Chris Bloore:** Thank you all for your evidence; it is really useful to hear counter discussion points and arguments. I really appreciate that. It is really good for members of the Committee to hear that and to be able to talk to you about that.

Sir Declan, you gave evidence to a Committee of the Northern Ireland Assembly in February. I was really interested in what you said about memorialising the Troubles and ICIRIR being party to that discussion and playing a role in that. Could you expand on that for the members of the Committee?

**Sir Declan Morgan:** Part 4 of the Act has not been commenced, so those issues have not yet come to fruition. The point I have tried to make is that when we are looking at reconciliation, we are looking at creating the base from which reconciliation can spring. In other words, you cannot have reconciliation until you have gone through the difficult process of having the truth told about what happened to everybody during the Troubles. It is a sign of how difficult that is that we were able to deal with our issues over police and over decommissioning, but we still have not been able to deal with this issue. That is an indication that this is exceptionally difficult in Northern Ireland terms for a whole host of reasons.

I suspect we may have to recognise that how memorialisation is done will have a total community element to it, but it may also have an intra-community element to it as well. Some areas that were seriously affected by the Troubles may have memorialisation of a certain kind. There were areas that were largely immune from the effects of the Troubles, and they may approach this in a different way.

That is where there needs to be discussion. There needs to be engagement with the community about that in the same way as for the historical record. I do not think that we should be looking at repeating "Lost Lives" and simply producing a book. We live in a different world. We live in a digital age. Should we not be thinking about it in a completely different way, trying to tell the story of what the Troubles were like and reaching out to the public to say, "Let's have a think about something different here that may be of help to others who are facing these types of



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issues down the line"? We want to try to be creative and different and provide people with something that reflects the modern age in which we live, rather than simply repeating what was done and done to great effect, it has to be said, many years ago.

I have one issue, Chair, that I do want to raise before I go. I do not know whether you are going to allow me to raise it.

**Chair:** We are very short on time. I do not know whether Chris has any supplementary questions.

Q199 **Chris Bloore:** My follow up was, is that a frustration? I understand your answer, but is it a frustration for you that you are not party to that sort of discussion at the moment?

**Sir Declan Morgan:** Not if we get the chance to do that once they actually commence it.

Q200 **Chair:** I will move on to our final question, and if it is appropriate to weave in what you would like to say, Sir Declan, you may do, but we do have a hard stop. We have been talking about memorialisation there. An issue associated with memorialisation and truth-telling is reconciliation, which is the primary objective of ICRIR, yet the Commission does not have a definition, and we have heard from witnesses that that is problematic. Should there be a definition? What is it, if there is a definition? If not, should reconciliation be separated out from the purpose and remit of ICRIR?

**Sir Declan Morgan:** I think the point is, as I have said, that ICRIR's purpose is to provide the basis for reconciliation. In other words, that is how it promotes reconciliation: by creating the ground upon which reconciliation can flourish. But the way in which societal reconciliation—because I do not think we are talking about personal reconciliation—may evolve will depend on the communities within which reconciliation is to take place. What may happen in the areas of north and west Belfast or east Belfast may be different from what happens in the Glens of Antrim or in some other areas within Northern Ireland, particularly those that were relatively untouched by the Troubles. I think we have to recognise that that is about listening to people. We have got to allow them to have their say and to participate.

I am going to make a statement: if you are looking at restoration of inquests—I am not saying in any way that it should not happen—you must ensure that the funding is there to go with it, because do not leave us in the situation that we were in in 2016. We set up the inquest plan, and it took three years and litigation in order to get the funding. You cannot do that to victims. If you are going to restore inquests, you must fund it, and our budget does not allow us to do that because we do it in a completely different way. We could not take £60 million out of our money because it would absolutely wreck us.

Q201 **Chair:** On that note, I thank you so much for appearing before us this morning, Sir Declan, Peter, Louise and Steven. We appreciate your time.