



**Advice on Dealing with the Past:
A Victim Centred Approach**

27 March 2014

Acknowledgement

The Commission for Victims and Survivors wishes to thank all individuals, groups and agencies who gave so generously of their time to contribute to the Dealing with the Past conference in February 2014 and to the Victims and Survivors Forum for their hard work and deliberations on these issues over the last two years.

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Summary

1. The needs of victims and survivors are complex and multi faceted. In examining these needs, the Commission for Victims and Survivors produced a Comprehensive Needs Assessment (CNA) two years ago that identified seven areas of need. However, the Commission also emphasises that each individual presents with a unique combination of these needs.
2. Dealing with the Past is also a complex and multi faceted subject for victims and survivors. As a minimum, victims and survivors expect that any process put in place to Deal with the Past is victim centred. This means addressing the issues from a victim's perspective and focussing on what victims and survivors want to see implemented.
3. The Commission has been working with victims and survivors on a daily basis for the past six years since its establishment in 2008. Two years of specific research has also been undertaken during the Comprehensive Needs Assessment process. It is the Commission's view, therefore, that when addressing the past from a victims and survivors perspective, four areas have been identified that need to be addressed, namely:
 - Acknowledgement;
 - Truth;
 - Justice, and
 - Reparation.
4. What victims need in each of these areas is simple. However, putting in place the mechanisms or frameworks to deliver these needs is difficult and there are many barriers within the Northern Ireland context to putting a process in place to deliver these needs.
5. This paper sets out the Commission's advice in each of these areas in order to address victims and survivors needs. It is written from the perspective of a

victim and survivor engaging with each of these areas and moving through each as part of a process that needs to be put in place in order to effectively address the past for victims and survivors.

6. The most recent attempt to solve these issues, the Haass/O'Sullivan initiative, has not garnered political support from across the political spectrum in Northern Ireland. However, the Commission believes that time is of the essence for many victims and survivors and there is merit and substance in many of the mechanisms identified within the Contending with the Past section of the Haass/O'Sullivan report that would be of significant benefit to victims and survivors if implemented.
7. Indeed the Haass/O'Sullivan report recognised the "extraordinary example of leadership" that victims and survivors have shown in trying to resolve these issues within their own communities and beyond. The Commission has experienced this at first hand with the debates and discussions that have taken place within the Victims and Survivors Forum over the last two years. The Forum has provided the Commission with two advice papers to date on Dealing with the Past and these have influenced and shaped the proposals within this advice.
8. Any potential solutions to Dealing with the Past that are victim centred must enshrine **the principle of choice for victims and survivors** of whether to engage with the mechanism or not. It must be recognised that not all victims, families or individuals will wish to participate in any future mechanism for Dealing with the Past and that this principle of choice is fundamental to any process.
9. It is also of paramount importance to remember that addressing the issues of Dealing with the Past are painful and emotional for victims and survivors to deal with and we must always be aware of the impact that they can have on individuals.

Recommendations

10. The Commission for Victims and Survivors recommends:

- i. The implementation of those parts of the Haass/O’Sullivan report in relation to Dealing with the Past where agreement exists between the political parties and are of benefit to victims and survivors. It is imperative to deal with these issues imminently, as time is running out for a lot of victims and survivors to get what they need in terms of truth, justice, acknowledgement and reparations.
- ii. Acknowledgement - An Acknowledgement Unit is established jointly by the British and Irish governments and that will make the appropriate arrangements so that an official apology can be issued to all victims and survivors individually as required.
- iii. Truth - The Commission recommends that an Independent Commission is established in Northern Ireland with the remit to compile a composite narrative of the Northern Ireland conflict/Troubles. The definition of a composite narrative is set out in paragraph 37 below. Further thought should be given to the extensive proposals outlined in the Haass/O’Sullivan report in relation to the Independent Commission for Information Retrieval (ICIR) as the basis for progressing the recovery of truth for victims and survivors.
- iv. Justice - The Commission recommends the establishment of one overarching organisation, under the remit of the Department of Justice, with the powers to investigate, co-ordinate and report on the provision of justice for all historical cases in relation to the Troubles/conflict. This organisation will encompass the roles of the current organisations involved with policing the past (HET, OPONI’s Historic directorate and the PSNI’s historic directorate).

- v. The Commission welcomes many of the aspects of the Historical Investigations Unit (HIU) as proposed within the Haass/O'Sullivan report and requests that consideration be given to implementing these proposals as soon as possible in relation to delivering meaningful justice for victims and survivors.
- vi. Reparation - The Commission for Victims and Survivors would recommend that a comprehensive process is put in place for the provision of reparations for all victims and survivors. Bereaved, injured and carers would all be eligible for a programme of high quality services, financial assistance and a pension for the severely injured.
- vii. Reparations in the form of a conflict related pension should be considered. The Commission has already submitted separate advice on a pension for those seriously injured and is currently completing research in order to inform the development of a Troubles/conflict related pension.

Context

11. The Commission for Victims and Survivors has been working closely with victims and survivors over the last six years on issues relating to Dealing with the Past. Victim's needs were examined in detail in relation to Truth, Justice and Acknowledgement throughout the CNA process. A specific piece of research was produced in 2012 regarding victims and survivors experiences on dealing with those organisations responsible for historical investigations and information recovery.¹
12. In addition, the Forum for Victims and Survivors has been discussing similar issues for almost two years and has produced two advice papers to the Commissioner on these issues. The first paper was submitted to the Commission in May 2013 and the second paper in March 2014. The Commission has been informed by the difficult and sensitive consultations and discussions that have taken place within the Forum over this period.
13. As part of this process the Commission and the Forum met with the Haass/O'Sullivan Team on 1st November 2013 for a half day and presented their views on dealing with the past.
14. The Commission has recently hosted a major Conference in February 2014. The purpose of the conference was to capture a range of views from groups and individuals in relation to issues concerning Dealing with the Past. The conference was designed as a consultative event, with the feedback and views from delegates being used by the Commission to inform this advice.
15. There were 251 individual delegates at the conference from across the victims and survivors sector including groups and service deliverers, statutory agencies, members of the Victims and Survivors Forum and individuals. The

¹ Commission for Victims and Survivors (2012) *Research on Historical Investigations and Information Recovery*, Deloitte

Conference has provided the Commission with a wealth of information gathered from the feedback provided by the delegates on the day.

16. The conference also served as a reminder that these issues, whilst important, are painful and emotional for victims and survivors to deal with and we must always be aware of the impact that these discussions can have on individuals.
17. One of the main findings of the conference was the interconnectedness and interdependence of each of the areas of truth, justice, acknowledgement and reparations. In every workshop references can be found to the other areas. Making progress in one of these areas is strongly connected with what happens in the other areas pointing to the need for any framework or mechanism for Dealing with the Past to ensure that it addresses all four areas in parallel.
18. Also a common message in each of the workshops is that it is imperative to deal with these issues imminently, as time is running out for a lot of victims and survivors to get truth, justice, acknowledgement or reparation.
19. This advice comes at a time when there is a lack of political agreement on how to progress the issues of flags, parades and dealing with the past. The Commission welcomed the Haass/O'Sullivan initiative as it had come from the political parties themselves. The key strength to this process is that local politicians had taken responsibility to try to solve these difficult issues.
20. The Commission welcomes the fact that in dealing with the legacy of the past the Haass-O'Sullivan document gives special mention to providing for the needs of victims and survivors. Indeed, the Commission is in agreement with the Haass-O'Sullivan report where it states that:

“The first requirement of any comprehensive treatment of the legacy of the past must be to provide for the social and health needs of victims and survivors; they must necessarily command a prominent place in matters related to the past. The burden of their pain and loss has been exceptional and has been borne with

remarkable dignity, patience and grace. In many cases, victims have become prominent voices in the effort to heal divisions across communities – an extraordinary example of leadership from which all in Northern Ireland could learn. We have been privileged to draw on their experiences, views and goals. Their voices in this area deserve special consideration and we have endeavoured to honour that wherever it was in our power to do so.”²

21. The Haass/O’Sullivan report also noted that one of the most contentious issues considered was the current definition of a victim and that it was not possible to reconcile current understandings of the word victim.

22. This has also been the experience of the Victims and Survivors Forum to date. The Dealing with the Past Working Group of the Forum has debated this issue over the last few months and is currently providing advice to the Commission on the definition. The Working Group has agreed that the definition is a complex issue and opinion on the definition is divided. Some members believe that the definition should remain unchanged. Others believe that attention needs to be given to making changes. However, the Working Group did agree that if the definition is to be given further consideration, that it should be approached with compassion, seeking to promote the wellbeing of as many victims and survivors as possible and emphasizing the shared experience of victimhood. The Forum has still to conclude their deliberations on the definition issue.

23. The division in relation to the definition is also reflective of the divisions amongst the victims and survivors community across Northern Ireland on various aspects of Dealing with the Past. The Commission is acutely aware of the differing views and opinions that currently exist and that were also articulated at the recent conference. In compiling this paper, the Commission is conscious that not all victims and survivors will agree with this advice and analysis, however, it represents the Commission’s views on delivering

² An Agreement Among the Parties of the Northern Ireland Executive on Parades, Select Commemorations and related Protests; Flags and Emblems and Contending with the Past, Proposed Agreement 31 December 2013, page 20

outcomes that will affect and benefit victims and survivors in a positive way. It has a victim centred approach to Dealing with the Past at its core.

Victim's Needs

Acknowledgement

24. Victims and survivors of the Northern Ireland “Troubles” are the people who have sacrificed the most and suffered the most during the years of conflict. First and foremost, all victims need acknowledgement and an apology for their hurt, pain and suffering endured throughout the years of the Troubles. There is a profound desire among many victims and survivors for acknowledgement from those individuals, paramilitary organisations and governments responsible.
25. In the workshop discussions of our recent conference it was made clear that acknowledgement can take different forms and there is not a “one size fits all” solution. The importance of making a public apology was highlighted and it was stressed that victims and survivors are running out of time to receive their apology.
26. This acknowledgement needs to originate from someone in authority. Simply, someone in authority needs say that they are sorry for each individuals hurt, pain and suffering.
27. Many families have had no official contact or acknowledgement that their loved one was killed or injured. The power of an official apology was highlighted when Prime Minister David Cameron apologised in the House of Commons for Bloody Sunday, describing the killings as “unjustified and unjustifiable” on 15th June 2010.
28. The Commission, therefore, would recommend that the British and Irish Governments work together to co-ordinate a response to this need. An Acknowledgement Unit within the British Irish Secretariat or a new North/South Body could be established to fulfil this role.

29. Each individual victim and survivor, who wished to receive an acknowledgement, could identify themselves to the Acknowledgement Unit, who would then verify the incident and issue a letter of apology for the individual's loss, suffering, injury, trauma or hurt.
30. This would provide each individual victims and survivors with an official letter and official documentation confirming the incident and an apology for the loss, suffering, injury, trauma or hurt that was caused during the Troubles. The Commission would also propose that to be considered an effective apology, any statement must be carefully crafted, acknowledges hurt, accepts responsibility and promises non-repetition.
31. The Commission welcomes the processes that are outlined within the Haass/O'Sullivan report in relation to acknowledgement and apology and in particular where encouragement is given to individuals, organisations and national governments to work together on specific statements of acknowledgement, including by discussing language, timing and other matters in private before public statements are made, to ensure that such acknowledgements are carried out in ways that contribute positively to healing and reconciliation. The Commission also agrees that this process should aim to be as inclusive and as complete as possible, involving all those who played roles in the Troubles.

Truth

32. Victims and survivors also need to hear the truth of what happened to them or their loved one. The key questions that need to be answered are:

- What happened?
- How did it happen?
- Why did it happen? and
- Who was responsible?

33. Victims and survivors are entitled to as much information as possible in relation to the incident where it still exists or where it is still available.

34. A piecemeal approach has operated in Northern Ireland to date in relation to “Information Recovery”. For some families this has helped achieve a sense of completion, but for others more questions than answers have resulted. The Victims and Survivors Forum has described the current processes as limited and stated that,

“These processes are disconnected, dissatisfying and often leave victims feeling unacknowledged and their suffering unrecognised.”³

35. It is quite evident that the past still has an impact on the present. Information about violent acts in the past, while being valuable, can stimulate and renew a sense of violation and outrage in society. Beyond the victim’s family, to the watching public, the revelation of the stark facts of the past can irritate old wounds and stir latent enmity in a society still vulnerable to division and conflict. Furthermore, the context that often applied to situations 20 or 40 years ago is not always fully understood when viewed through a twenty first century lens.

36. “Truth” is more than the provision of factual information. It values facts and information but seeks to go further and deeper, examining mindsets and

³ The Victim and Survivors Forum (2013) *Advice Paper to the Commission on Dealing with the Past*, May

motivations; exploring causes and consequences and developing deeper insight about the impact of violence on the people involved.

37. The Victims and Survivors Forum has recommended that a composite narrative be developed. There is an acceptance that, the conflicts we continue to experience arise, in large part, from our separate and dividing narratives of the past and consequently, those narratives need to be given attention. There have been many examples of storytelling projects and testimony collection. These now need to be brought into one place and a shared narrative of what happened developed. The Forum has stated that,

“A narrative needs to be constructed and that a collection of existing narratives should be made out of which, with additional material, the contours of a narrative can be constructed, without conflicting narratives being adjudicated. This will inform the process of moving into a future in which the past will not repeat itself.”⁴

38. The Commission, therefore, would recommend that an Independent Commission is established in Northern Ireland with the remit to compile this composite narrative. Its remit would include the duty to research and pursue the collection of information and data. It also would welcome receiving information from representatives of all organisations that were party to the Troubles, including those proscribed organisations.

39. This Commission would liaise with victims and survivors in providing as much information as possible to individuals in relation to the circumstances relating to the relevant incident of each individual victim or survivor.

40. The Commission for Victims and Survivors welcomes the recent proposals in the Haass/O’Sullivan report in relation to the Independent Commission for Information Retrieval (ICIR), the establishment of an internal unit to analyse patterns and themes, the establishment of an archive and the emphasis that

⁴ The Victim and Survivors Forum (2013) *Advice Paper to the Commission on Dealing with the Past*, May, unpublished, Page 22

the proposals in relation to these bodies does not constitute any form of amnesty. The Commission is aware of the current “political sensitivities” that surround these proposals, but is of the belief that the majority of what is proposed would have a positive impact for victims and survivors.

41. At the recent conference, victims and survivors expressed concerns around the readiness of Northern Ireland for such a truth mechanism. A common theme reported back from the workshops was that a lot of preparation and confidence building is still needed for victims and survivors before society can embark on any truth process and there were concerns that people were not yet prepared for all the truth.

Justice

42. Victims want justice for the hurt and pain that they have suffered. The pursuit of justice on behalf of Victims and Survivors revolves around the core question, can those responsible be held to account? The current criminal justice system provides a piecemeal approach to dealing with victim and survivor issues and it is the Commission's view that victims and survivors should be at the centre of any justice processes.
43. With regard to the criminal justice system, victims need reassurance. They need to know whether there was a proper investigation of the crime committed against them or their loved one. If there was no proper investigation, they need to know whether it is possible for one to be undertaken now. If it is, they need to know that such an investigation is rigorous and competently undertaken. If convictions are not possible, victims need to trust the word of the person or authority who tells them so. For most, at this stage, there is little chance of anyone being brought before a court and convicted. Victims need to see the justice system doing what it can to right historical failings regarding the investigation or non-investigation of serious crime.
44. Currently, historical investigations are limited solely to killings. Therefore, the greater number of crimes relating to the Troubles is set to remain unsolved, unexamined and largely unexplained. The seriously injured and the traumatised are unlikely to achieve anything more from the justice system.
45. Victims and survivors experience many difficulties with the current systems in place to deal with the past from a criminal justice perspective. These include the State's duty to ensure investigations into conflict related deaths are in compliance with Article 2 of the European Court of Human Rights, the effectiveness of the HET (after the HMIC report), the long delays experienced in the current system for investigations either in the PSNI, OPONI or the Coroner's Court, the time lapse between the incident and the present day and

all the challenges that presents in terms of evidence and the loss or destruction of evidence over the years.

46. Recent Commission research also identified that there is a major challenge in demonstrating independence and managing conflicts of interest in this area.⁵ This is critical in regard to conflict related deaths linked to the police and army. The research also identified that the current mechanism found communication challenging, for example, knowing when and how best to engage with families and how often.
47. The communication issue is complex given the varying levels of trust families have in the process and their levels of expectations. There is a need to bring the concerns of victims and survivors closer to the heart of the overall approach, particularly to front line service delivery. There is also a need for better inter-agency work to shorten the timeframes involved in accessing information from other service providers.
48. The services currently in place to deliver justice are a significant part of acknowledging and dealing with the past. The issues and processes involved are complex and in some cases lengthy and expensive. These include the HET, OPONI Historical Directorate, the PSNI, the Coroner's Court and the Inquiry process. While the combination of services provided will never meet all the expectations of all victims and survivors, it is fair to conclude that the current arrangements are struggling to undertake the cases assigned to them. There is an urgent need to consider how realistic their current timelines, resource arrangements and processes are.
49. Both the Commission and the Consultative Group on the Past have advocated for a more comprehensive approach to dealing with the past from a criminal justice perspective. The Commission would, therefore, recommend that in relation to delivering justice for victims and survivors that a more strategic and co-ordinated approach is required.

⁵ Commission for Victims and Survivors (2012) *Research on Historical Investigations and Information Recovery*, Deloitte

50. Therefore, the Commission would recommend the establishment of one overarching organisation, under the remit of the Department of Justice, with the powers to investigate, co-ordinate and report on the provision of justice for all historical cases in relation to the conflict. This organisation would encompass the roles of the current organisations involved with policing the past (HET, OPONI's Historic directorate and the PSNI's historic cases) and have the following remit/power:

- To investigate, arrest and pass evidence to the DPP for prosecution through the courts;
- To investigate all incidents and serious injuries where victims and survivors are seeking justice;
- Have full access to all information;
- Have a high level of independence.

51. The Commission welcomes the description of the Historical Investigations Unit (HIU) within the Haass/O'Sullivan report in meeting these requirements. It also welcomes the remit of the HIU being extended to include investigations and reviews into cases involving severe injuries. The Commission also endorses the right of the victim or survivor to the principle of choice on whether or not the individual or family wishes to participate with any investigation or review. The Commission also welcomes the proposal to have the services of an advocate-counsellor to provide logistical guidance and emotional support through each stage of the process.

Reparations

52. The term reparation has different meaning to different people. It is much more than purely financial, it is also about moral reparation and can include restitution, compensation, rehabilitation, measures of satisfaction (such as apologies and memorials) and guarantees of non-repetition.
53. Victims and survivors want and need reparations for the hurt, loss and suffering that they have experienced. Reparations are another form of acknowledgement for victims and survivors. At the recent Dealing with the Past conference victims and survivors agreed that reparations are about repairing what has been done. Gross violations were inflicted on victims and to ignore this hurt, is seen by many to repeat that gross violation.
54. It is universally accepted that the conflict in Northern Ireland has had harmful effects on the social and economic health of our society. Victims are doubly affected as ordinary citizens living in a society that has been socially and economically damaged by conflict and violence and as individuals who have been directly impacted by violence. Our shared society has a civil responsibility to express compassion to those who live with the consequences of loss from the Troubles, either through bereavement, injury or the demands of caring for the injured.
55. In relation to the provision of services, the Commission has completed its Independent Assessment of the Victims and Survivors Service and is working closely with the Board of that organisation to ensure that a range of high quality services exist for those who need them.
56. Again a piecemeal approach has existed over the years in relation to financial compensation for injury and loss of life. Research undertaken in the Commission's Analytical Review of Compensation⁶ revealed that prior to changes being made to the compensation legislation in Northern Ireland in

⁶ Commission for Victims and Survivors (2011) *Analytical Review of Compensation*, CVSNI

1988, no consideration was given to the next of kin receiving damages in relation to bereavement awards. Many families who were bereaved during the conflict received no payment in relation to the emotional impact the family endured and many families did not receive any compensation whatsoever.

57. It is not possible to appropriately financially compensate victims and survivors through reparations for the material and emotional losses that they have suffered. There is no price that can be put on the life of someone who has been lost to their family. Or a life that could have been so different had it not been for terrible physical and emotional injuries. No tariff or scale rate can possibly address that.

58. Again, depending on circumstances individuals may have received occupational pensions, however, these were mainly available to security force personnel. The Commission for Victims and Survivors has already submitted advice to the First and deputy First Minister in relation to pension provision for those who were seriously injured during the troubles.

59. The Commission would recommend that a process is put in place for the provision of reparations for all victims and survivors. Bereaved, injured and carers would all be eligible.

60. To do this effectively a significant amount of funding would be required. Funds could be sourced from the Northern Ireland Executive, the British and Irish governments, the European Union and contributions from other international states who may wish to contribute (United States, Libya and Commonwealth countries).

61. Reparations could take the form of a one off payment and the provision of a conflict related pension. The Commission has already submitted advice on a pension for those seriously injured and is currently completing research in order to inform the development of a conflict related pension.

62. The Commission is aware that the eligibility criteria for receiving such reparations will be the key to achieving successful reparations. The Consultative Group on the Past made a recommendation on a £12,000 payment for every conflict related death in 2008, but it proved to be too difficult politically to implement or agree. Similar sensitivities still exist and these will need to be negotiated in order to achieve an overall agreement on how to proceed with reparations for victims and survivors.

Conclusions

63. On the basis of the evidence the Commission has collated and analysed over the past six years, the discussions and consultations with the Victims and Survivors Forum and the findings of the Dealing with the Past Conference in February 2014, The Commission for Victims and Survivors recommends the following actions in order to take a victim centred approach to Dealing with the Past in Northern Ireland:
64. The implementation of those parts of the Haass/O'Sullivan report in relation to Dealing with the Past where agreement exists between the political parties and are of benefit to victims and survivors. It is imperative to deal with these issues imminently, as time is running out for a lot of victims and survivors to get what they need in terms of truth, justice, acknowledgement and reparations.
65. Acknowledgement - An Acknowledgement Unit is established by the British and Irish governments and that will make the appropriate arrangements so that an official apology can be issued to all victims and survivors individually as required.
66. Truth - The Commission recommends that an Independent Commission is established in Northern Ireland with the remit to compile a composite narrative of the Northern Ireland conflict. Further thought should be given to the extensive proposals outlined in the Haass/O'Sullivan report in relation to the Independent Commission for Information Retrieval (ICIR) as the basis for progressing the recovery of truth for victims and survivors.
67. Justice - The Commission recommends the establishment of one overarching organisation, under the remit of the Department of Justice, with the powers to investigate, co-ordinate and report on the provision of justice for all historical cases in relation to the conflict. This organisation would encompass the roles of the current organisations involved with policing the past (HET, OPONI's Historic directorate and the PSNI's historic directorate).

68. The Commission welcomes many of the aspects of the Historical Investigations Unit (HIU) as proposed within the Haass/O'Sullivan report and requests that consideration be given to implementing these proposals as soon as possible in relation to delivering meaningful justice for victims and survivors.

69. Reparation - The Commission for Victims and Survivors would recommend that a comprehensive process is put in place for the provision of reparations for all victims and survivors. Bereaved, injured and carers would all be eligible for a programme of high quality services, financial assistance and a pension for the severely injured.

27 March 2014



Appendix 1

Report on the Dealing with the Past Conference

Stormont Hotel, Belfast

25 February 2014

Acknowledgement

The Commission for Victims and Survivors wishes to thank all individuals, groups and agencies who gave so generously of their time to contribute to the Dealing with the Past conference.

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Abbreviations

CVSNI	Commission for Victims and Survivors
DWP	Dealing with the Past
HTR	Healing Through Remembering
OFMdFM	Office of First and deputy First Minister
QUB	The Queen's University of Belfast
TJI	Transitional Justice Institute
UU	University of Ulster

Summary

On 25th February 2014 the Commission for Victims and Survivors held a conference on the subject of Dealing with the Past at the Stormont Hotel. Conference partners included Healing Through Remembering, the Queen's University of Belfast, the University of Ulster, Transitional Justice Institute and the Victims and Survivors Forum.

The aim of the event was to consult with and listen to the views of individuals, groups and organisations representing victims and survivors on issues relating to Dealing with the Past.

There were 208 individual delegates at the conference from across the victims and survivors community including groups and service deliverers, statutory agencies, members of the Victims and Survivors Forum and individuals.

Delegates attended two workshop sessions on the subject areas of Acknowledgment, Truth, Justice and Reparations. Feedback and commentary from the workshops will be used by the Commission to inform policy on issues relating to Dealing with the Past.

The content of this report will be used as a resource by the Commission in preparing its advice to the Office of the First Minister and deputy First Minister by the end of March 2014.

The conference has provided the Commission with a wealth of information gathered from the feedback provided by the delegates on the day. This information will be used to inform the work and advice of the Commission in the future. The conference also served as a reminder that these issues, whilst important, are painful and emotional for victims and survivors to deal with and we must always be aware of the impact that these discussions can have on individuals.

Many commented that it was important to be given the opportunity to discuss justice, acknowledgement, truth and reparations in such a way and that they would encourage the Commission to make these types of opportunities available in the future. The Commissioner stated in her opening remarks to the conference that,

“This event then is part of a process of consultation. It is not the final part and it’s not the first part– it’s just another way of finding out what you think.”

The Commission will make opportunities for the conversation to continue in the coming months.

One of the main findings of the conference was the interconnectedness of each of the areas discussed. In every workshop references can be found to the other areas. Also a common message in each of the workshops is that it is imperative to deal with these issues imminently, as time is running out for a lot of victims and survivors to get truth, justice, acknowledgement or reparation.

The discussions in the workshops have provided a wealth of views and opinions in relation to the four themes. This report attempts to capture the essence of those discussions and the detail is captured below for each workshop. However, we include one main finding from each workshop here to provide you with an indication of the discussions and findings:

- Reparations – the term reparations has different meaning to different people. It is much more than purely financial, it is also about moral reparation and can include restitution, compensation, rehabilitation, measures of satisfaction (such as apologies and memorials) and guarantees of non-repetition;
- Justice – There are significant issues and variances in relation to justice issues ranging from the values attributed to justice, through to societal, family and transgenerational impacts. The political context also has a significant bearing on justice issues. Justice may also disappoint victims and survivors as you may not get the outcome you desire;

- Acknowledgement – can take different forms and there is not a “one size fits all” solution. The importance of making a public apology was highlighted and it was stressed that victims and survivors are running out of time to receive their apology;
- Truth – is a very complex concept that has different meanings to people within Northern Ireland. A question was posed back – are we ready for a formal truth mechanism? A common theme reported was that a lot of preparation and confidence building was needed for victims and survivors before embarking on any truth process and there were concerns that people were not yet prepared for all the truth.

1.0 Background

On the 25th February 2014 the Commission for Victims and Survivors (CVSNI) held the Dealing with the Past (DWP) conference at the Stormont Hotel, Belfast.

The purpose of the conference was to capture a range of views from groups and individuals in relation to issues concerning DWP. The conference was designed as a consultative event, with the feedback and views from delegates being used by the Commission to inform advice to the Office of First and deputy First Minister (OFMdfM) on DWP, which is due in March 2014.

Partners for the conference included Healing Through Remembering (HTR), the Queen's University of Belfast (QUB), University of Ulster (UU) and Transitional Justice Institute (TJI). The Victims and Survivors Forum Working Group on DWP also played a major role in the planning and delivery stages of the conference.

2.0 Attendance

There were 208 individual delegates at the conference from across the victims and survivors sector including groups and service deliverers, statutory agencies, members of the Victims and Survivors Forum and individuals. A further 43 individuals attended with a speaking or staff role.

3.0 Conference Proceedings

In order to plan for the conference and facilitate as many voices as possible the Commission held a planning event on 6th February with the Victims and Survivors community. Taking on board the feedback from that event, the Commission sought to balance information and participation to ensure that delegates benefitted from the event. To enable this, academics delivered factual information and insights on DWP issues in order to provide an opportunity for an informed discussion during the conference workshops.

Proceedings for the day included a Welcome by Commissioner Kathryn Stone; a presentation from the Forum Working Group on DWP; an overview of OFMdfM's responsibilities regarding victims and survivors; an analysis of the Haass-O'Sullivan

paper by Professor Kieran McEvoy; two workshops; and observations on DWP, facilitated by journalists Brian Rowan and Susan McKay.

The conference programme can be found in Appendix A.

3.1 Welcome

Commissioner Kathryn Stone opened the conference.

The Commissioner advised that the rationale and objective of the conference was to ensure that the Commission heard the broadest range of views from as many people as possible before submitting advice to Ministers.

Commissioner Stone recognised that the themes of the workshops – Acknowledgement, Truth, Justice and Reparations, were difficult issues. She reiterated that the conference was about the Commission listening to the views of victims, and was also about victims listening to each other.

The Commissioner thanked the conference partners and the Victims and Survivors Forum for their contributions and unparalleled level of knowledge, skill and experience in the area of DWP.

A copy of Commissioner’s opening remarks can be found in Appendix B.

3.2 Forum Working Group on Dealing with the Past

The Reverend Dr Lesley Carroll, Chair of the Forum Working Group on DWP, informed delegates of the group’s work.

The Reverend Carroll provided an overview of the working group’s latest advice paper to the Commission. Out of all the papers recommendations, advice was directed towards one core principle – “that it should never happen again.”

The Reverend Carroll highlighted some of the current challenges that the group faced. These issues included the definition of a victim and survivor, language and

terminology used by different groups, and the fact that Northern Ireland society may not be ready to construct a singular narrative of its past.

It was noted that the use of the term 'conflict' may or may not be acceptable terminology and the working group now uses the term 'conflict/the Troubles' in their papers and advice to the Commission.

Delegates were introduced two members of the Victims and Survivors Forum, Peter Heathwood and Errol McDowell.

Peter Heathwood described how he was shot by loyalists in front of his wife and children in 1979. His father, believing he was dead, died of a heart attack at the scene. He described his participation in the Forum as: "We listen to each other as human beings. Common to all of us is that we have been on the receiving end of violence." Peter appealed to the conference to find a successful outcome to issues relating to DWP. He concluded by quoting George Santayana: "Those who do not remember the past are condemned to repeat it."

Errol McDowell described his 32 years' experience serving as a police officer. Errol recounted incidents of rioting, gun attacks and bombings during his service. He highlighted an incident when he suffered serious burns during civil disorder and the 1985 mortar attack on Newry RUC Station, in which nine of his colleagues were killed. Errol described the DWP Working Group's work as difficult and emotional at times. He concluded with the point: "But the tears are the same."

Errol McDowell highlighted the Forum's values for DWP as:

- Violence is futile;
- The rule of law is to be respected as a basis for moving forward;
- Generosity is called for, to each other in the victims and survivors sector and across society;

- Victims and survivors should be considered part of the whole community and integrated into it rather than tolerated or marginalised;
- Individual, local and sectional experiences of victims should be respected;
- Strong political leadership and decision making should be paramount in the interests of democracy;
- The outstanding issues with regard to the past must be addressed; and
- All parties, both public and individual, engaged in developing a better future should come to their task with humility, respect for the dignity of others, tolerance and a desire to make and embed peace.

Delegates were advised that these values are the guiding principles for all conversations and work conducted by the Forum.

3.3 OFMdfM Overview

The Director of Social Investment and Good Relations, Mr Richard Irwin, gave an overview of OFMdfM's responsibilities in relation to victims and survivors. He made reference to the work of the Commission, the Victims and Survivors Service and the role of the Victims and Survivors Forum.

Mr Irwin referred to the work of the Programme Board in relation to the assessment of the Victims and Survivors Service and advised that the 55 recommendations are available on OFMdfM's website.

Mr Irwin told delegates that the department saw the DWP conference as an important part of the process of providing advice to the First and deputy First Ministers.

Mr Irwin thanked the Commission for holding the event and paid tribute to the work of the Victims and Survivors Forum.

3.4 Overview of Haass-O’Sullivan Document

Professor Kieran McEvoy, School of Law, QUB, gave a thorough overview of the Haass-O’Sullivan proposals.

Professor McEvoy posed the question “Why wasn’t dealing with the past part of the Multi-Party Talks that led to the 1998 Good Friday Agreement?” He explained that those negotiations were difficult enough without attempting to deal with the contentious issue of DWP. He noted that the result has been a piecemeal approach, and identified three publications that have contributed to DWP:

- Healing through Remembering (2006);
- Consultative Group on the Past (2009); and
- Haass-O’Sullivan Negotiations (2013).

Delegates were told that the strength of the Haass-O’Sullivan process was that the initiative came from the political parties themselves. As a result there was a lack of engagement from the British and Irish governments. He said that the key strength to this process is that local politicians had taken responsibility, “being in one room and trying to hammer out a deal.”

Professor McEvoy highlighted five key elements of the paper that addressed DWP:

- Support for victims and survivors;
- Acknowledgement;
- Historical Investigations Unit;
- Independent Commission for Information Retrieval (inc. themes unit); and
- Narratives and archives.

Professor McEvoy stated that in dealing with the legacy of the past the Haass-O’Sullivan document gave special mention to providing for the needs of victims and survivors.

In relation to victim engagement with the process he quoted the following from the Haass-O'Sullivan report:

“Their voices in this area deserve special consideration and we have endeavoured to honour that wherever it was in our power to do so.”

Professor McEvoy went on to say that the paper reported on the continuing needs and harm suffered by victims and survivors. From a victims and survivors perspective, key elements of the paper included:

- Welcome of the Victims and Survivors Service Independent assessment;
- Calls for establishing a Mental Trauma Service; and
- Recognition that the parties could not reach agreement on who could be considered a 'victim'.

The presentation also covered the subject of acknowledgement. Professor McEvoy stated that acknowledgement can be seen as a foundation step for DWP. He advised that blame for the past is not equally shared in society but rather than particular burdens rest on those, whether state or paramilitary actors, who acted beyond the rule of law. Further, he stated that it requires more than saying sorry. It requires an unqualified acceptance of responsibility; an expression of the human consequences of past violence; a sincere expression of remorse and encourages individuals, organisations and governments to work together on coordinating acknowledgement statements.

A copy of Professor McEvoy's presentation can be found in Appendix C.

4.0 Workshops

Attendees were able to attend two workshop sessions, one in the morning, and one after lunch. Four workshops were held in parallel with approximately sixty participants in each workshop.

The format for each workshop included a contextual academic presentation, perspectives from two Forum members and group participation. Each workshop was chaired and by a trained HTR facilitator.

A Commission staff member was in each workshop and participants were made aware that a listener service was available if needed.

4.1 Justice

Many victims want justice for the hurt and pain that they have suffered. The current criminal justice system provides an approach to dealing with victim and survivor issues. The workshop aimed to explore the options available for victims and survivors in pursuing justice.

The workshop commenced with a panel presentation. Contributors included QUB's Professor Gordon Anthony and Forum members Alan Brecknell and Stephen Gault. The workshop was facilitated by HTR's Helen McLaughlin.

Alan Brecknell and Stephen Gault gave an overview of the work of the Victims and Survivors Forum and the role of the DWP Working Group. They provided the workshop with their perspectives of justice and both were speaking in a personal capacity and not as Forum members.

Alan Brecknell's father was killed in loyalist gun attack on a public house in Sliverbridge in 1975. He was there celebrating the birth of his daughter. Alan gave an overview of his pursuit of justice in the form of researching the circumstances surrounding his father's murder. He told the workshop that he does not have the desire to see anyone face trial for the murder of his father. He felt that putting those responsible for his father's death through the justice system would not provide him

with any closure and he also stated that he would not want to see an elderly person being subjected to trial.

Stephen Gault's father was one of 11 killed by the IRA's bombing of a Remembrance Sunday service at Enniskillen in 1987. Stephen, who was severely injured in the bombing, recounted the event and the impact that it has had on his life. Stephen told the workshop that not only was his father taken from him, but the physical pain he continues to suffer is a constant reminder of the bomb. He stated that he has a desire for those responsible for the bombing to be subject to the justice system.

Both accounts highlighted the differing perspectives from victims in relation to the pursuit of justice.

Professor Anthony provided an overview of the criminal justice system. This included an account of the criminal, civil and coroner's courts and an overview of Article 2 of the European Court of Human Rights Act.

A copy of Professor Anthony's presentation can be found in Appendix D.

4.1.1 Justice Feedback

Workshop participants broke into small groups to explore key issues relating to justice. Feedback to the Commission is summarised below:

Values of Justice

- Importance of psychological and therapeutic value of justice. It can enable moving forward for families and society.
- Everyone involved in the pursuit of justice should be open, honest and accessible.
- Does the pursuit of justice lead to healing for victims and survivors, or the opposite?
- There cannot be justice without truth. Both concepts are interlinked.
- Victims should be at the centre of any justice process.

- Justice should take the form of acknowledging perpetrator and institutional responsibility.

Societal Impact

- Justice belongs to victims and survivors as well as society as a whole.
- Justice is not as simple as victims and perpetrators. Many others have been impacted (society, institutions and generations).
- Public hearings can provide insights for families/groups/society.
- Prosecutions can play an important societal role. If you commit an unlawful act you should be held accountable.

Family and Transgenerational Impacts

- Families of victims often differ on views regarding the pursuit of justice. Differing views on justice can divide families and cause further pain.
- Convictions may not necessarily bring closure for families.
- Support for families is essential. This can be advice, guidance or emotional preparation. This will prepare them for the process and possible challenges they may face.
- The pursuit of justice should not be a burden on the next generation. There will be significant transgenerational impact if the pursuit of justice is continued.
- Decisions to seek justice should not be left to families but should be the responsibility of the authorities.

Processes

- The justice system needs to be more assertive and proactive in the pursuit of justice.
- The outcomes of justice have the potential to disappoint. This is best shown by controversial sentences or no convictions at all.
- Can the state investigate itself, or elements within the state, impartially?
- Cost should not be a barrier. The state has a duty to investigate regardless of cost.

Political Context

- Those convicted of incidents committed before the Good Friday Agreement will serve a maximum of two years.
- Is there a political will to seek justice for victims?
- Many people do not want criminal proceedings as they have sympathy for those who carried out/involved in incidents.
- No-one should be above the law. The law should apply equally to everyone regardless of position in society.
- The definition of a 'victim' needs to be addressed. Definitions from other jurisdictions could be explored as a starting point.
- Justice sits difficultly with reconciliation.
- The state is accountable through legal mechanisms and governance. Illegal organisations are not subject to the same level of scrutiny.

Challenges Facing Pursuit of Justice

- Perception that government and the judiciary do not want to pursue justice due to the political pressure.
- Issues for justice include resources, funding and willingness to pursue convictions.
- The passage of time has a profound impact upon justice.
- Confidence in the judicial system is needed in order to respect it.
- People have differing views concerning concepts of justice.
- Any system is reliant upon people telling the truth - they may not do that.
- Amnesties and immunities question the validity of justice.
- Victims outside of Northern Ireland should be afforded same assistance in the pursuit of justice.

4.2 Reparations

Some victims and survivors need reparations for the hurt, loss and suffering that they have experienced. Reparations may also be another form of acknowledgement for victims and survivors. This workshop aimed to explore options for a process that could be put in place for the provision of reparations for victims and survivors.

The workshop commenced with a panel presentation. Contributors included QUB's Dr Luke Moffett and Forum members Alex Bunting and Jennifer McNern. The workshop was facilitated by HTR's Lesley Macaulay.

Dr Moffett stated that reparations are measures to effectively remedy the harm suffered by victims and may include restitution, compensation, rehabilitation, measures of satisfaction (such as apologies and memorials), and guarantees of non-repetition. He highlighted that reparations are generally made by those responsible for the harm caused to victims, whether state, paramilitary organisations, individuals or a combination of the latter.

In contexts where victims may also have been perpetrators of human rights violations, Dr Moffett explained that international practice would suggest that their claim to reparations may be reduced by a commensurate amount to reflect their responsibility in another's suffering or indeed barred altogether. However, for those victims who committed violence but were unlawfully killed, the harm suffered by their families should not negate the right to reparations.

Whilst compensation seeks recognition from another agency for the loss endured, reparation addresses directly the individual or organisation that wronged the victim. While some may focus on financial reparation, for many there is a need for moral reparation, the acknowledging of wrongful action.

A copy of Dr Moffett's presentation can be found in Appendix E.

Two Forum members contributed to the workshop; Jennifer McNern in the morning and Alex Bunting in the afternoon session. Both contributors set the context for reparations from their perspectives as severely injured victims. They wished to

contextualise the impact economically, socially and physically on their lives as victims and describe what they believed victims' needs are in terms of reparations.

Jennifer was injured in a bomb explosion when she was 21 years old and she lost both her legs. The compensation she received at that time was similar to many victims in the seventies and eighties at the height of the conflict. The compensation was based on a limited perceived life expectancy of 10 years. These victims are now in their 50s and 60s and their needs are greater as they grow older.

Alex was severely physically injured in a booby trap bomb explosion in 1991. He stated that many victims are living on benefits and this is unjust as they had their capacity to generate an income and contribute to a pension was taken away from them.

Both stated that on a daily basis, victims and survivors have to deal with debilitating injury and ongoing health issues. Living with extreme and prolonged agonising chronic pain has put career and ambition on the back burner. Many have spent their lives on benefits unable to fulfil gainful long term employment.

Both highlighted that financial uncertainty is the cause of great anxiety. This stressful situation is further exacerbated by the threat of welfare cuts which may result in more financial insecurity for many. The collective effect of living with severe injury and financial uncertainty can cause overwhelming stress.

As Forum members, they have been in discussion with politicians to ask them to implement a 'special payment' as a form of reparation for those who are living with serious injuries. They have also informed recent research commissioned by CVSNI into a pension for the severely injured.

They concluded that reparations are about repairing what has been done. Gross violations were inflicted upon victims and survivors. To ignore this hurt, to consign it to oblivion, would be seen by many as a repeat of such gross violations. For them, this would be a total injustice.

4.2.1 Reparations Feedback

Workshop participants broke into small groups to explore key issues relating to reparations. Feedback to the Commission is summarised below:

Interpretations

- Reparation has a different meaning to different people. We need financial reparations for all victims.
- The format for reparations requires flexibility. Tailored and person-centred. Eligibility – is the current definition fit for purpose? Does it exclude any persons?
- Need for acknowledgement. Recognition that there is no hierarchy of victims; everybody suffered pain and some continue to suffer. People have been damaged; acknowledgement lets the victims know they have not been forgotten.
- Need to have a review of the narrative/context of why conflict took place how state responded, (ie: discrimination in housing, jobs, etc).
- There needs to be a debate over whether perpetrators should have access to reparations.
- The reparative process should be a growth process – such as financial safeguards that allows for job creation, particularly addressing transgenerational issues; young men have been alienated, distancing from economic activity.

Financial

- Compensation needs reviewed from the start. Assessing how victims and survivors are defined, non-means tested and do not victimise.
- The example of the Northern Ireland Memorial Forum as a form of reparation that worked.
- State forces have received compensation and financial support. There is a feeling that civilians have been treated differently.
- An influx of funds is needed into the criminal justice system to enable adequate investigation and a possibility of justice.

- We can learn from other international examples – i.e. Germany has provided over €80 billion euros and a long term commitment to Holocaust survivors. In Chile services have been provided which amount to around \$1.6billion over a 6 year period.
- There is embarrassment on the part of victims' families to mention compensation – it is a duty of groups to make compensation options known.
- Some victims and survivors feel that compensation is a pay off.
- There are fears from individuals and groups that financial support will not be available to deliver support services.

Services

- Need for special provisions for victims – financial and other. Need for a delivery that works in partnership and engages broadly with all stakeholders.
- Need for specialised pain clinics.
- Need for more psychological/counselling/health facilities for victims but there is an issue of distrust of statutory bodies – need to invest in communities.

Memorialisation

- We need positive, meaningful and supportive gestures to individuals.
- Symbolic memorial to all victims through a 'Day of Reflection'.
- There needs to be a public holiday to honour and acknowledge all victims.
- Government/civic society commission a physical memorial to all victims.

Political Context

- Trust in institutions – timeframe is critical – how long will any future scheme last?

- It is the responsibility of politicians to deal with this – they have sorted out policing and prisoner releases and they need to deal with this issue.

Geographical and Jurisdictional

- Geographical issues of Haass are notable – ‘Belfast centric’ – lack of recognition of geographic spread – money can distract from breadth of need and tailored help e.g. other services and support.
- Cross jurisdictional issues – needs acknowledgement of the victims who in Great Britain and the Republic of Ireland and their families.

4.3 Acknowledgement

Victims and survivors have expressed the need for acknowledgement and an apology for their hurt, pain and suffering endured throughout the years of the Troubles. This workshop aimed to explore how best this need can be addressed.

The workshop commenced with a panel presentation. Contributors included QUB’s Professor Kieran McEvoy and Forum members Reverend Dr Lesley Carroll and Peter Heathwood. The workshop was facilitated by HTR’s Joe Blake.

Professor McEvoy’s presentation began by exploring the commentary contained in the Haass-O’Sullivan draft agreement document on the issue of acknowledgement. He stated that the document calls for public statements of acknowledgement by those involved in the conflict, encouraging them to take responsibility for what they have done and express remorse for the pain they have caused. The document also pledges to facilitate the collection of individual narratives of the conflict and to establish an archive for their preservation.

A number of other points highlighted in the presentation relating to the Haass-O’Sullivan document are as follows:

- Blame for violence is not equally shared across society;

- The burden of the past rests most heavily on those paramilitary or state actors, who acted outside the rule of law;
- To publicly acknowledge the realities of the conflict does not equate them, but all such acknowledgements will help bring about a better climate; and
- Individuals, organisations and governments should work together on specific statements of acknowledgement to discuss language, timing and other matters in private initially... to contribute positively to healing and reconciliation.

Professor McEvoy spoke about the importance of making public apologies by the main protagonists involved in the Northern Ireland conflict. This discussion involved consideration of public statements of apology provided by loyalist and republican paramilitary groupings and Prime Minister Cameron's statement regarding Bloody Sunday. He also highlighted a number of points relating to the features of an effective apology including that it is carefully crafted, acknowledges hurt and accepts responsibility and promises non-repetition.

A copy of Professor McEvoy's presentation can be found in Appendix F.

The Reverend Lesley Carroll spoke about how recognition and acknowledgment has been considered by the Victims and Survivors Forum through discussions held by the DWP Working Group over the past two years. She referred to the difficult and divisive area of language and the need to acknowledge that within a conflict resolution environment there is a plurality of narratives and associated discourses about our past can be allowed to coexist. A way in which the Forum Working Group have sought to advise on addressing the difficult issue of language is through the development of a 'composite and un-adjudicated narrative' of the past. Reverend Carroll also commented on the imperative of acknowledging the needs of victims and survivors who live outside Northern Ireland as well as the need to ensure we do not forget the human cost and ensure that the past should never happen again.

Peter Heathwood highlighted two areas for him that are important in terms of acknowledgement. The first relates to personal history and the lack of recognition that he and other severely physically injured victims have received. Peter spoke about the omission of the needs of the severely physically injured in both the 1998 Bloomfield Report and the 2009 Consultative Group on the Past Report. For him, important ways of ensuring acknowledgement of the plight of the severely physically injured are through provision of services that can practically address his physical health and financial needs. He provided examples of timely and effective access to physiotherapy and a special pension for the severely injured that could make a tangible difference to his life. The other area referred to by Peter was the utility of storytelling and importance of archiving individual stories of experiences from our troubled past.

4.3.1 Acknowledgment Feedback

Workshop participants broke into small groups to explore key issues relating to acknowledgement. Feedback to the Commission is summarised below:

General Perspectives

- Acknowledgement is not a 'one size fits all' and does take different forms.
- Context needs to be recognised – there are many perceived truths that need to be acknowledged. Attitudes need be modulated to respect this.
- Acknowledgement can mean different things to different people – not everyone is looking for an apology. Some are looking for justice instead of acknowledgment.
- Acknowledgement needs to come on the back of a process of knowledge/information provision.
- In the absence of acknowledgment by perpetrators saying what they did was wrong, it may encourage sections of our young people to become engaged in sectarian violence.
- No consensus on the issues and arguably little hope of agreement.

- It needs to be acknowledged that 'terrorism' happened and there was never any justification for murder.

Apologies

- Importance of being sincere, well crafted and coupled with accountability.
- Not everyone has received an apology including victims of collusion and sometimes apologies can be offensive when there is selective remorse i.e. apology followed by justification e.g. INLA 1998 Ceasefire statement reference: “nothing to apologise for in taking the war to the British and their Loyalist henchmen.”
- Acknowledgement of past mistakes are important to individuals and families e.g. Prime Minister Cameron’s Bloody Sunday apology but it must go further in terms of acknowledging other wrongdoings and also ensure further information (where possible) be provided. Also there needs to be acknowledgement of other events involving British soldiers e.g. Ballymurphy (families wanted acknowledgement and public apology for the deaths of their innocent relatives).
- Sometimes apologies can be seen to have been given for politically expedient reasons. This can be seen as undervaluing the apology and causing concern as to what is being given in return.
- Provision of an authentic, genuine, sincere apology can be hugely significant for the individuals concerned and for society in terms of creating a new space in which to build trust and reconciliation. There also needs to be accountability alongside the apology in terms of constructive action e.g. active police investigation ensuring all protagonists are accountable under the law.
- Wording of the apology is very important ('well crafted'). Comments referring to 'non-combatants' and 'being in the wrong place at the wrong time' can cause offence (for individuals who have been waiting many years).

- Public and private apologies: Some apologies are given in private to individuals and families (where circumstances allow this to happen). Do not underplay the importance of private apologies.
- Apologies given often seem hollow without accountability for actions.
- Apologies from the state and from paramilitary organisations need to be followed up by positive action, such as information provision/recovery.
- There needs to be recognition given to those who are not involved in acknowledgement processes (memorials, commemorative events, remembrance day etc) - what process is open to these individuals?
- Need to acknowledge and address the needs of those severely physically injured during the Troubles. Consultative Group on the Past report did not explicitly highlight to the needs of the injured.
- Institutional Abuse Inquiry: are there lessons or examples of acknowledgement that can be followed for victims of the conflict. Can we learn from a layered approach?
- Acknowledgement requires willingness and authenticity.
- The two Governments need to take the lead in supporting an agreed acknowledgement process that supports the needs of victims and survivors.
- Acts of acknowledgement need to happen soon as future generations are being affected - has potential to generate animosity/hatred in present generations. Also older generations of victims seeking acknowledge may never receive it before the end of their lives - therefore there is urgency for acknowledgement to happen more quickly.
- It is important to acknowledge different perspectives and acknowledge each other as human beings rather than focus on the past.

Use of Language and Terminology

- Language is a difficult and divisive issue. Use of terms like 'state actor' and 'terrorist' and 'war' cause hurt and distress to victims. For some of the participants it was not a 'war' it was a 'terrorist campaign' that led to

the loss of their loved one. Also there is a view that when certain language or narratives are used that it provides justification for perpetrators of violence.

- Definition of a victim/survivor - it needs to be viewed as something that is determined by the individual and how they view the impact of the conflict/Troubles on them, their families and communities from which they come from.

Empowering the Voices of Victims

- Opportunities (provided by the workshops) should happen more often to facilitate discussions around acknowledgement and other DWP issues.
- Some families feel that they are not being effectively represented at Government levels.
- Storytelling can be an important mechanism that can facilitate acknowledgement of conflict/troubles-related events.
- The media has a significant role in ensuring conflict-related incidents are reported in a sensitive way. There is a need for coverage to be handled in a responsible way which always appreciates the emotional impact on victims and survivors.

4.4 Truth

Some victims and survivors need to hear the truth of what happened to them or their loved one. They are entitled to as much information as possible in relation to the incident where it still exists or where it is still available. This workshop aimed to explore these issues further.

The workshop commenced with a panel presentation. Contributors included UU's Dr Louise Mallinder and Forum members John Loughran and Errol McDowell. The workshop was facilitated by HTR's Roger McCallum.

Dr Mallinder's presentation highlighted that the right to truth is not mentioned explicitly in any international treaties, but it is viewed as emerging international law.

This means that states have a duty to investigate international crimes and the most serious human rights violations. Locally, legal obligations come from Article 2 of the European Court of Human Rights.

Dr Mallinder stated that it is generally recognised that victims and societies have a right to truth for gross violations of human rights. This right to truth can entail investigations into facts of individual cases as well as patterns of violations, and cause and consequences of violence. It was also highlighted that recovery processes have a range of individual and social goals designed address past abuses and prevent repetition.

A copy of Dr Mallinder's presentation can be found in Appendix G.

Errol Mc Dowell and John Loughran spoke from a personal perspective in relation to how the Troubles had impacted on their own lives. Errol had served as a police officer in the RUC for over 30 years and had been injured in the mortar attack on Newry RUC Station. John's uncle had been killed by the British Army in the New Lodge area of Belfast in 1973. Both Forum members presented personal views on what the truth meant to them and outlined the types of discussions that took place within the Forum on these issues.

4.4.1 Truth Feedback

Workshop participants broke into small groups to explore key issues relating to truth. Feedback to the Commission is summarised below:

Defining Truth

- Truth is a complex issue. Truth has a different meaning to different people and there are multiple narratives that make up the truth.
- An independent body is needed to define truth here.
- Truth recovery is still a very painful and emotional issue for people.
- What is the timeframe of the conflict; recent or back as far as the 1920s? Going back beyond 1969 would impinge on current conflict. Need to look at interpretations of history.

Truth Recovery Process/Format

- Not yet ready for a formal format – still do not know if we know what truth means, are we ready to listen?
- Haass came close to providing a format.
- Need official acknowledgement but this can have political implications.
- How would it be done? Acknowledgements from ‘actors’ responsible, oral testimonies to make up for lack of documentation. An independent investigative body independent from everybody. This is included in the Haass proposals.
- Need consensus and agreement as to whether there should be a truth process and what it means.
- Government too weak to take the truth at the minute but time is running out.
- Haass process – problem how do people get the information they want, no incentive to tell the full truth or full disclosure.
- Lack of trust in state and non-state actors.
- Needs a lot of goodwill on the part of all participants.
- Some political parties will not sign up to a truth process – there is an absence of truth.
- How can you trust people involved in the debate?
- State agencies still in denial; government does not freely provide information that it can.
- Paramilitaries must have kept some records. Perpetrators are keen to forget the past.
- How much will anyone share about this – big questions, who is protected behind the documents?
- Need the truth – ‘tell the truth as a child would tell the truth.’

Conditions for Truth Processes

- Values and principles to be agreed collectively for any process. Lots of preparatory work needed before beginning with any process.
- Acknowledgement is a necessary first step in any process.

- Future processes – need to link cases/killings. Investigations are individual at the minute but they need linked.
- Clear links to justice and acknowledgement, contested but informed conversation.
- Official acknowledgement needed, and official narrative is needed to accompany it.
- Acknowledgement of the Victims Forum - showing maturity in how they are presently arguing the case for victims – politicians should learn from them.
- Activity to be done non-judgementally.
- Universal belief – acknowledgement that things were done.
- Significant untruths have been passed down through generations.

Suggested Formats

- Strong support for an investigative agency like the Historical Investigations Unit – one place, one body to provide as many answers as possible.
- International Commission for Information Retrieval – what people want but there are problems in how to get information on specifics of all official documentation and all official storytelling.
- Formal process necessary, that works in tandem with other processes such as justice and needs to be clear.

Truth and Justice

- Truth and justice is interconnected.
- Is the truth being told justice enough or is prosecution the only form of justice?
- Difficult if you want justice. If truth is ‘bought’ is it any good? Need the moral imperative/conscience to come forward.
- Truth will not always lead to justice, justice has different meanings to different people.
- Need to define truth and how it factors into justice.

- Different versions of truth, do we balance truth and justice? Not everyone wants justice or prosecutions.

Meeting the Needs of Victims

- Is truth going to be enough in itself?
- Support for individuals and families – how do you prepare people for the outcome – people are not prepared to hear all the truth; need confidence built to participate in any process.
- Psychological framework needed for any process, not just legislative.

Geography

- Exclusion of people located outside of Northern Ireland needs to be addressed.
- Haass does not refer to an international context of the conflict.

Definition and Legalities

- There is still much disagreement about the definition of 'victimhood.' There are those who feel that 'real' or 'innocent' victims had no choice over death or injury, whereas the perpetrators had the choice. Some recognise that some perpetrators became involved in the conflict/Troubles from a young age and were influenced by seeing violence and its impact on their families and community.
- Definition of a victim/perpetrator argument.
- Legal immunity has become a very emotional issue. Former combatants will only voluntarily come forward in the context of immunity, e.g. disappeared. Immunity from prosecution assist information flows – is this a price worth paying?
- The role of amnesty very important in the future.
- Punitive justice is not going to be realised – need to keep expectations realistic.

Need for Archive of Truth/Stories

- Ability to sit and hear the other narratives, and learn that there is more than one truth. Need an archive of everybody's truth.
- Information informs truth. History is the victor's truth. The collating of 'truths' – who would this be done by? Historians, journalists or others.
- An investigative body with full powers of compulsion to investigate, individual cases, both deaths and injuries. To answer what happened, who did the acts, why – with the possibility of justice. Then a truth recovery process.
- Need to investigate themes/patterns – to give context. This also needs power of compulsion with same protection against self-incrimination. This could give context to individual cases.
- Scope for the process for narratives and sharing narratives – not a legislative process. This should look at initiatives already in place for ensuring stories are heard.

Sense of Inequity

- Paramilitaries no incentive to talk but state actors held to account.
- Need a moral imperative to come forward and tell the truth.
- Historical Enquires Team has failed many victims in relation to truth.

Need to Concentrate on the Future

- Learning to live and share this place – need to address and resolve.
- We need to live in today's world – looking back hinders us from living out lives. Need to look after your own families. People are losing themselves in these issues. They swapped a war economy for a peace economy. To some extent we need to draw a line in this and move on as governments are dividing and ruling.
- This can be all consuming of your life, i.e. Bloody Sunday – 42 years ago.
- Bloody Sunday Inquiry gave us nothing more than we knew.
- Today victims are being used to attract votes. Need the leadership to make the points.

- Generational issue – leaves a vacuum if you do not discuss this with children and people.
- Investigation is not the way to deliver truth. Needs to be behind closed doors, away from the media and the public.
- Truth is bankrupt until everyone in society accepts that violence is unacceptable.
- Truth needs to be built into the various narratives. However narratives may be misinformed or may have an agenda.
- Micro truth – particular incident.
- Macro truth – broader understanding of conflict to deliver truth – credible, individual experiences, the untruths, got to create a believable history that people buy into.

5.0 Conference Observations

The workshop discussions were summarised by two guest observers, journalists Brian Rowan and Susan McKay, in a conversation facilitated by HTR's Kate Turner.

Brian Rowan commenced saying every time we have this conversation about DWP, we walk on eggshells. He said, "Don't take this process for granted. That people can come into a room such as this, in a non-confrontational way, is significant." He described this as a constructive conversation, one which may become building blocks for further progress.

Susan McKay said she was struck by the tremendous generosity of the victims' community in taking part in the conference. She noted the incredibly powerful input from the Victims Forum and the extent of their contribution at the conference to make it work. One matter she noted in particular was that time is running out for people and it is imperative to deal with these issues. She noted that everyday people are suffering and getting older and there are needs for services and financial assistance. She made a point that while it is good that Government officials welcome the contribution that victims and survivors are making to the discussion, victims and survivors should not be expected to solve the problems; political leadership is

required. Victims and survivors should not be expected to have too much responsibility.

Speaking on the workshop topic of justice, Susan reported back the points that justice can disappoint; you may not get the verdict that you desire, as well as the one you want may not satisfy your pain. She also highlighted the trans-generational nature of dealing with the past and not to make seeking justice too much of a burden upon the next generation. Susan also spoke of the absence of agreement on the definition of a victim.

Brian Rowan, speaking on the topic of truth, appreciated how painful and emotional this topic is, as it is in the present tense for many. He reported points about the need for confidence in any process, including its principles and values, which will require its own adequate preparation process. He highlighted that this was the problem with both the Eames-Bradley process as well as the December 2013 remarks by the Attorney General for Northern Ireland when he called for 'drawing a line' in regards to pursuing public prosecutions for legacy events. Brian concluded, "We're not quite ready for a truth process, because (a) we don't know what truth means and (b) what will a truth process deliver."

Brian Rowan further stated that themes running through the day for him was that it is not just about acknowledging the hurt and the practical needs of those injured and hurt but there are important issues such as needs for a pension payment and access to services and treatment.

On the workshop topic of reparations, Susan McKay said that she learned that it meant more than financial compensation — it includes memorialisation, education and respect. Indeed, it was important to her to educate the current generation on why there are people about them damaged by the Troubles. Brian concurred with this, in that he was concerned about how some young people use the language of the Troubles, something they do not have any direct experience of, having been born after the ceasefires.

With respect to the topic of acknowledgement, Brian stated that there are gaps in provision of services for victims and survivors, but one gap that is closing is the ability for all to come together in an environment such as this conference: “a form of acknowledgement in itself.”

Brian Rowan expanded on the role of the media and its responsibility during the conflict. He admitted that in remembering headline events, one forgets the people affected: “The media needs to understand that there is much that they are forgetting.” He added that an archive for everyone’s story would make a huge contribution to a better understanding.

Susan McKay added that sometimes journalists’ role in dealing with the past can be superficial: “Editors may not think some stories are now worth covering.” But she credited those in the Victims Forum for having “stuck with the hard, auld slog” of difficult conversations. She concluded that there is not a cosy outcome from the conference’s proceedings. What people have been through has been too horrific to have cosy conversations. Susan found the event very powerful and very moving and commended people for sharing. She said that doubling back is the hardest thing to do and we all need a moment to sit back and reflect.

Susan McKay suggested that in order to recognise the truth in what others say, Unionists should spend time with Palestinians, and Nationalists with Israelis to provide an internationalised context.

Brian Rowan said this conversation needs to continue. Furthermore, politicians need to get more involved, and not to use this as a political football. What is needed is political leadership.

The Commissioner in her concluding remarks noted that it could not be said that there was not an appetite for conversations on DWP when over two hundred people attended the conference. She noted the very positive atmosphere throughout the day and thanked people for their engagement. She highlighted the powerful input from the Victims and Survivors Forum and reiterated the point made by others that time is running out for victims and survivors.

6.0 Conclusions

The purpose of the Dealing with the Past conference was to facilitate wide consultation and discussion with the sector to inform and advise the Commission.

There were 208 individual delegates at the conference from across the victims and survivors sector including groups and service deliverers, statutory agencies, members of the Victims and Survivors Forum and individuals. This indicates a high level of interest in the subject matter, content and rationale behind the conference. Those present were provided with an opportunity to engage with the Commission and have the opportunity to inform policy and advice to Government. The feedback and range of views collected in the workshops indicates the need for continued engagement with the sector to ensure that victims and survivors are provided with a voice.

It is fundamentally important to meet the challenges discussed at the conference. These challenges, discussions and debates about how we deal with the legacy of the past will continue to be discussed long after the conference has ended. We must ensure that collective work to address these challenges do not overwhelm the present or undermine the future.

As highlighted throughout the day, difficulties in dealing with past events should not overshadow the pursuit to move forward and support the many and varied needs of victims and survivors.

The Commission will use the information gathered at the conference to inform its work and advice in the future. There was a clear desire from those present to continue the conversations in these important areas for victims and survivors and the Commission will be examining how best to do this over the coming year.

The Commission would particularly like to thank all those who attended and contributed to making the event a success.