



## Terms of Reference

## 1.0 Background and Context

1.1 The Fresh Start Agreement was finalised on 17 November 2015 between the Northern Ireland Executive, the UK Government and the Irish Government, following intensive discussions between the NI political parties and the two Governments.

1.2 The introduction to the Agreement set out its overall vision as follows:

“Building on the political Agreements reached in the past, the progress made to date – and to ensure it continues – we reiterate the primacy and centrality of peace and the political process to the continued transformation of our society, through democracy, inclusion, reconciliation, equality of opportunity for all and the absence of violence.” (Article 1.1 of Section A)

1.3 A key goal in terms of the delivery of that vision was set out in Article 2.3 of Section A – “We have entered into the most far-reaching commitments ever taken here to uphold the rule of law and bring about the end of paramilitarism.”

1.4 The Agreement set out various ways and measures by which this goal was to be achieved, in the context of the overall vision described above. These included a Section headed “A Strategy to End Paramilitarism”. Article 4.1 of this Section provided for the establishment of a three person Panel to develop a strategy and make recommendations to disband paramilitarism in Northern Ireland. The Panel recommended a strategy that included a security and criminal justice response to paramilitarism alongside the need to address wider societal issues.

1.5 The Fresh Start Agreement also included proposals for an Independent Reporting Commission (“IRC”) to be established following the submission of the Panel Report on the disbandment of paramilitarism.

1.6 The IRC was subsequently established by an international treaty between the UK Government and the Government of Ireland dated 13<sup>th</sup> September 2016.

1.7 Founding legislation in the UK is set out in sections 1 to 5 of the Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016, the Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016 (Independent Reporting Commission) Regulations 2016 and the Northern Ireland (Stormont Agreement and Implementation Plan) Act (Immunities and Privileges) Regulations 2016. Founding legislation in Ireland is set out in the Independent Reporting Commission Act 2017. Following completion of the legislation in both jurisdictions an Exchange of Notes between the UK and Ireland brought the international treaty into force on 8 August 2017.

1.8 The Commissioners are:

John McBurney – (NI Executive nominee)

Monica McWilliams – (NI Executive nominee)

Tim O’Connor – (Government of Ireland nominee)

Mitchell Reiss – (Government of the UK nominee)

## 2.0 Purpose and Objective

2.1 The overarching purpose and objective of the IRC, in accordance with Article 3 of the international treaty, are to carry out its functions with a view to :

- promoting progress towards ending paramilitary activity
- supporting long term peace and stability and
- enabling a stable and inclusive devolved Government in Northern Ireland.

2.2 The IRC in its endeavours and reporting will provide oversight and impetus to the implementation of the Northern Ireland Executive's Action Plan on Tackling Paramilitary Activity, Criminality and Organised Crime. It will also highlight best practice in relation to both criminal justice and societal focused measures aimed at ending paramilitary activity.

2.3 In carrying out its functions, the IRC will be mindful throughout of the overarching vision of the Fresh Start Agreement for the "continued transformation of our society" and that that is the context in which the ending of paramilitarism must be achieved.

## 3.0 Functions

3.1 The IRC's functions as described in paragraph 5.1 of Section A of the [Fresh Start Agreement](#) and Articles 4 and 5 of the international treaty (with particular reference to paramilitary groups declared to be on ceasefire) are to:

- **Report** annually, or on such further occasions as jointly requested by the UK Government and the Government of Ireland, on progress towards ending continuing paramilitary activity in Northern Ireland.
- **Report** on the implementation of the relevant measures to be progressed by the respective administrations i.e. the UK Government, the Government of Ireland, and the Northern Ireland Executive; and
- The IRC **may**, in its reports, **make recommendations** to the Northern Ireland Executive in order to inform future Programme for Government priorities and commitments through to 2021.

## 4.0 Approach and Delivery

4.1 In carrying out the functions described above the IRC will **consult** the Irish Government and relevant law enforcement agencies, the UK Government and relevant law enforcement agencies and, in Northern Ireland, the Executive, the Police Service of Northern Ireland, other statutory agencies, local councils, communities and civic society organisations.

4.2 In terms of "supporting long term peace and stability in society and stable and inclusive devolved Government in Northern Ireland", the IRC will have a strong focus in its work on promoting and supporting practical, comprehensive and effective measures and initiatives that aim to bring about the continued transformation of society envisioned in the Fresh Start Agreement.

4.3 In accordance, therefore, with the Panel Report presented to the NI Executive in May 2016, the Fresh Start Agreement and the International Treaty signed by the two Governments, the IRC will adopt a twin-track approach to ending paramilitary activity by focusing its endeavours, direct engagements and reporting on societal impact activities alongside criminal justice responses.