

Northern Ireland Affairs Committee

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

Wednesday 22 October 2025

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Members present: Tonia Antoniazzi (Chair); Chris Bloore; Sorcha Eastwood; Claire Hanna; Simon Hoare; Katrina Murray; Gavin Robinson.

Questions 272-291

Witnesses

I: Hilary Benn MP, Secretary of State for Northern Ireland; and Sharon Carter, Deputy Director of the Legacy Group at Northern Ireland Office.

Examination of witnesses

Witnesses: Hilary Benn MP and Sharon Carter.

Q272 **Chair:** I thank the Secretary of State for Northern Ireland for joining us for this extra session on legacy. Secretary of State, having now introduced the Troubles Bill, can you set out exactly how you plan to ensure the Government of Ireland keeps to its commitments under the joint framework?

Hilary Benn: We stood together—Tánaiste Simon Harris and myself—at Hillsborough on 19 September. I made commitments on behalf of the British Government; he made commitments on behalf of the Irish Government. I have no doubt at all that the Irish Government will honour its commitments. We have already demonstrated, with the publication of the Bill, that we will honour ours. We have come together because we know the issue needs to be dealt with. We know the mess that the last Legacy Act left for the UK Government. We know about the interstate case. The Irish Government moving from their current position will have nothing to do with the ICRIR expressing their commitment to the fullest possible co-operation. It is really, really important for the people in Northern Ireland who are still waiting for answers about what happened to their loved ones.

As I said in the House when I made my statement, all of the legislation, the framework, is for one purpose only, which is to enable us to move



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forward and to help those families. As I said, people will agree with bits and disagree with bits, but I really hope that we can work together—the House of Commons, elected representatives in Northern Ireland, the community, victims and survivors—to say, “This looks like this could be a way forward. Let’s get on with it,” and that includes the Irish Government fulfilling the commitments that it has made.

Some have suggested that there should be a trigger mechanism: we will not do this unless they do that. I would also make the point that the UK Government have to do this, anyway, because of the legal mess left by the Legacy Act, because of the court cases. We have to remedy this because at the moment there is not a body that is article 2 compliant. I am determined to create such a body by the changes I am going to make to the commission.

Q273 Chair: Can you detail how the information provided to the proposed Independent Commission on Information Retrieval will be substantiated?

Hilary Benn: That is a very important question. As you will be aware, the ICIR was the subject of the last agreement that was reached between the UK and Irish Governments back in 2014 in Stormont House. What is the purpose of the ICIR? It is to say: might there be another means by which people are prepared to come forward and say what happened? That comes with the protected disclosure arrangement that we are all familiar with, because that is how the ICLVR—the Independent Commission for the Location of Victims’ Remains—works. The information that has been disclosed to that body has enabled the remains of quite a number of the disappeared to be recovered and reunited with their loved ones and their families. The ICIR will not have an investigative capacity, but it will want to check with published sources. I am sure it will want to check with the commission, “Have you got anything to say on this?”, which we can then provide as context when we pass the information to the families. It may not be possible to check what has been disclosed in those circumstances.

The other thing that of course we have had to consider is ensuring that the bodies operate in the right sequence. That is why the Bill makes provision that if an investigation is going on, it has to remain with the commission before the ICIR can do anything.

Some of this is to be worked out, but we will have to find a practical means of checking, in so far as it is possible to do so. If someone is saying something about something they witnessed and nobody else did, but they have decided to pass that on for the benefit of the family, how would you actually be able to check? Then a judgment has to be made and caveats have to be provided when the information is passed on to the family. But it may help. I think it is definitely worth trying. That is why the Governments previously reached agreement on it; that is why it is part of the framework we agreed with the Irish Government.

Q274 Chair: Can we expect more co-operation from Dublin on the Omagh bombing inquiry under the terms of the joint framework than under the current memorandum of understanding?



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Hilary Benn: Yes, we can. Simon Harris himself has said that the MoU is in place, and they have committed to passing legislation to enable witnesses to come and give evidence to Omagh in time for the next session, which I understand starts in March. So that is a commitment that they have given, and I am sure that, in line with all the commitments the Irish Government have made, they will honour that, in the same way as I hope they assure people that I will honour the commitments I have made on behalf of the British Government.

Q275 **Katrina Murray:** Thank you very much for staying on to do this briefing, Secretary of State. I want to go back to the area that I raised with you in relation to the statement in the Chamber a couple of weeks back, now that we have been able to see the draft legislation. The Bill makes various provisions for the Secretary of State to appoint commissioners, including co-directors of investigations, to the new Legacy Commission. One thing that we have heard a lot about is calls for more independence and independent government of the organisation. How do you think what is laid out in the Bill will achieve this?

Hilary Benn: In terms of the commissioner roles and the two co-directors of investigation, it will be a new start. I will review the job descriptions. There will be an invitation for applications. Those who are currently serving are of course perfectly free, as I think I said to you, to apply if they wish to do so. With the taking of advice from panels, individuals—the way it is structured—the aim is to have an appointment process that looks much more like what you would normally have when making appointments to bodies like this than was the case when the appointments were made under the Legacy Act. That is the first thing.

The second thing is this. As I am sure you will understand, the purpose of having two directors of investigation—one with experience of investigations in Northern Ireland and one with experience of investigations outside—goes to the heart of the conflict-of-interest policy, which I think we talked about the last time I gave evidence, because there will be statutory requirements on the new Legacy Commission, as it will be called, to have regard to conflicts of interest, and having two people with those different experiences means that you can say, “You are going to take that job, that investigation, and you are going to take this one.” I think it adds to the confidence. The Northern Ireland courts have already commented on the independence of the body, and I can give assurance to the Committee that although the Secretary of State and my successors will be making appointments, it is absolutely independent in the work it undertakes and the decisions it reaches. It is essential that it is, in order to give more people confidence to come forward to it. As we know, there are parts of the community in Northern Ireland who have said, “I’m not going anywhere near that commission thing,” because of the circumstances in which it was created and what happened around it, as well as the establishment of the commission itself.

As you will be aware, I decided early on that I was not going to abolish it and start afresh. I thought it was the right decision at the time. If I may say so, I feel even more so now that it was the right decision. It enables



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100 investigations to carry on and move seamlessly into the new body when the new appointments are made. I hope that more people will look at it—it will be article 2 compliant—and say, “Yep, I’d like my case to be looked at there.” That is what we are trying to do, so that more families get answers.

Q276 Katrina Murray: Following on from that, schedule 1 to the Bill is quite explicit that a commissioner may not be appointed if the Secretary of State “considers that there is a matter which... would give rise to a conflict of interest”. That is a very wide-ranging power. What parameters do you envisage there being to deal with that?

Hilary Benn: That is a very good question. I would have thought that that would be welcomed—that somebody would not be capable of being appointed where others may perceive that it seems like a conflict of interest. We will have to work out in the appointment process exactly how that provision is applied. It is something for the panel of people who will be asked to advise on this and make recommendations to me to consider.

Sharon Carter: That is exactly right. It will be in the design focus about what the factors will be.

Hilary Benn: That is reassuring.

Q277 Simon Hoare: Secretary of State, while we are on this area of your proposals, are you able to say a word or two with regard to the resourcing of it? I want to break resourcing down into two parts: resourcing in terms of financial requirements to make all these things work, and to work well and at pace, and any thoughts or conversations you have had about people who may be required to undertake new work. You can put the money in place, but it does not necessarily generate the people with the skillset and the capacity to implement.

Hilary Benn: That is a really important question. The Government are allocating £250 million to the work of the commission, but a bit of that will apply to part 4 of the existing Legacy Act. Let me take this opportunity to make it clear: part 4 of the 2023 Act remains. People look at the Bill and say, “What’s happened to part 4?” It is not being amended by this, but other bits of the 2023 Act are being amended. Part 4 remains. That is the first point.

Secondly, we are restarting the clock on the five years, precisely so that families who did not want to have anything to do with the commission previously have that time to come forward, which was the original intention in the Legacy Act 2023. At the end of the five years, applications cease, but the commission still has a body of cases to deal with, and they will have to work their way through them until they have dealt with all the workload. That is the second point. That will, of course, involve discussions with the Treasury for the years ahead. We have sorted out the current spending review period.

Thirdly, on the capacity within the commission, I visited both the offices in London and in Belfast, and they have a lot of people who have a lot of



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investigative experience. Some critics have said of the current commission, "Well, all they do is have a look at some papers, do a desktop review and produce a report." That is not actually what is going on. In the Bill, we are going to make this more explicit. All cases start with a case review. If, following the case review, a view is taken that there might be a possibility of prosecution arising out of it, it will be a criminal investigation. If the view is, "It isn't," then there will be a full fact-finding investigation, and in the end, a report will come to the family, or, if that is the case, a file would go to the Public Prosecution Service. Now, it remains to be seen, because we still have not had the first report from the current commission—100 cases. We are looking forward to that, because the other thing I have said repeatedly is that families will be the judge of whether this works in its current form and its new form. What do they make, having been through the process, of the information they get—of the report that is given to them? Ultimately, it is about them. If I may ask the question back to you, did you have particular types of capacity in mind?

Q278 Simon Hoare: A novel approach, but let's have a go. Specifically, in terms of the commissioners themselves—although I think you have addressed that—if or when there is recourse to the courts, and an expectation of criminal investigation via the PSNI, do they have capacity headroom to deal with these things in a full and timely fashion?

Hilary Benn: This is the case currently, and that is another misunderstanding about the current ICRIR. It already has the capacity, if it encounters evidence that it might think capable of leading to prosecution, to pass that over to the Public Prosecution Service in Northern Ireland, and the Public Prosecution Service looks at that in the normal way as it would look at any case file referred to it by the PSNI as it is. That is no different.

One thing we are doing with the legislation is closing a gap, because there are certain types of alleged crimes that currently fall to neither the commission nor the PSNI to deal with. That has been raised. This Bill will close that, so there will be nothing that cannot be investigated by somebody. I think that is the right way of expressing it, and it is very important for those who have been campaigning on that particular issue.

In the case of a file that goes well, the Director of Public Prosecutions in Northern Ireland applies the normal tests—"Is there reasonable prospect of conviction?" and "Is it in the public interest to prosecute?"—and takes their decisions. That is wholly independent of the commission and, of course, Government. That is the very bedrock on which our independent judicial process is based. It is really important that we uphold and respect that in every single case and not suggest, as I am afraid some people have occasionally done, that there is some other motivation; there is not. They are independent prosecutors, and they take decisions independently. Thus it is and thus it always must be.

Q279 Chair: I am mindful of the time, but I want to follow up on the budget. On the reset of the commission, does that reset its budget?



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Hilary Benn: I would not say it resets its budget. There is a sum of money that we inherited previously—

Chair: The £250 million.

Hilary Benn: That goes in, but there will be a work programme going forward, and that will have to involve some additional resources, depending on the number of cases it gets, because this is demand-led.

Q280 **Chair:** Of the £250 million that was allocated, how much of that has been spent?

Hilary Benn: I have not got that figure with me.

Sharon Carter: We will find out.

Hilary Benn: We will find it out and send it to you, if that is okay.

Q281 **Claire Hanna:** Some stakeholders have reiterated their concern that the framework retains the broad national security veto from the Legacy Act, and that that could fatally undermine confidence and the progress that the framework represents. How will you prevent that veto being used to suppress relevant information reaching families when it relates to state agents and their handlers? How will you build confidence that this is not going to be a ministerial layer of control that undermines everything that the framework is trying to deliver?

Hilary Benn: The first thing I would say is that all Ministers have responsibility for national security. I cannot think of a state in the world, and that includes Ireland—

Q282 **Claire Hanna:** You will be aware that, right up until recent days, we have been dealing with decades of this information being suppressed.

Hilary Benn: I am only too aware of the history, but that is the first point: no Minister can pass to anyone else responsibility for the protection of life and national security. We have to be quite clear about that, and that is something that all Governments recognise, as far as I am aware.

Secondly, we are making a number of changes. I said that to the House of Commons last December, following the court ruling. The court said, "Hmm, we have looked at the powers over disclosure. This does not really look like a public inquiry to us. It seems to go beyond that." I said, "I'm going to remedy that by way of legislation," and that is what I am seeking to do.

In the current legislation, we are removing a requirement for information to be designated as sensitive because of the body from which it comes. That is going. It will also put a duty on the Secretary of State to conduct a balancing exercise—disclosure/non-disclosure—and to provide reasons, where that is possible, as to why the balancing exercise is being conducted in that way. Finally, of course, it is always open to anyone to judicially review decisions that Ministers have made. I hope that that will give people greater confidence. I believe I have honoured the commitment that



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I gave to the House of Commons back in December to change the provisions.

Ultimately, people look at this and think, "Well, it is absolute and total." But what will happen in practice, and what happens in practice at the moment, is draft report, dialogue: "We are proposing to say this. What do you think?" There will be a back and forth: "Can you put it in a slightly different way?" It is not like, "We have had the report. No, no, no, you can't say any of that." It is important to understand that there will be a dialogue, which happens at the moment, when reports are checked, to decide what can be published.

If you look at the interim Kenova report as an example, we will look at what is in that. That has appeared, notwithstanding what people say is the veto—

Claire Hanna: With pretty big suppressions of information.

Hilary Benn: Pardon?

Claire Hanna: There is information that people think is relevant that has not emerged.

Hilary Benn: Well, it said quite a lot. But, anyway, we are expecting, in the not-too-distant future, the final report of Operation Kenova—because that was an interim one, of course.

Q283 **Claire Hanna:** Do you understand where that anxiety comes from? Are you confident that you will be able to build confidence? Are you confident that these structures are going to be able—

Hilary Benn: Yes, I—

Claire Hanna: Again, the context is your Department continuing to argue in court against disclosure mechanisms. Are you confident that you are going to be able to demonstrate good faith, and that that information, when it is embarrassing to paramilitaries or to the Government, can still be released?

Hilary Benn: If you are talking about "embarrassing", I do not think being embarrassed is a national security problem.

Q284 **Claire Hanna:** I would argue that it is; there is information about very squalid practices by paramilitary organisations and the state, and I think it is embarrassment, rather than national security, that would appear to have led to this information being suppressed for all these years.

Hilary Benn: It is all going to depend on the facts and the circumstances of the individual case; there is no getting away from it. I cannot give a blanket assurance in respect to all of the cases that will come before the commission and have to be considered. Obviously, this issue is currently the subject of live proceedings that are being considered by the Supreme Court.



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I am acutely conscious of the history, and I am acutely conscious of documents appearing with line after line after line of blacked-out text. Of course, if you are a family member and you see that, you think, "Is the answer I have been looking for in there?" Jon Boutcher made that point in the interim Kenova report. He said that, in the absence of information, people come to conclusions or views that may or may not be justified by the evidence when it comes out and people can see it. Again, it depends on the circumstances.

The other fundamental problem here, which I also understand, is who do you trust to tell you the truth? That is the issue: who do you trust? Going back to the question I was asked earlier by Katrina Murray, if people see that the commission is independent—and it is—I hope that will engender trust. It has the power to see all the documents—all the documents, without exception—and the ability to deal with some material in closed session, which coroners courts do not have. That is a strong argument, when sensitive material is involved, for cases being looked at by the commission. We know that there are cases—we can think of a number of cases in particular—where the coroner has independently looked at a PII application and said, "I accept that this material cannot see the light of day, but as a result I cannot take this inquest further." That is very unsatisfactory for all involved—above all, the family. The commission will be in a position to look at that material and have mechanisms for dealing with it.

Those coroners' cases that have stopped, or where the Solicitor General, having done the sifting process, decided, "This cannot really be dealt with because of the sensitive information, the speed and what the families think," go to the commission. Then they will be subject to the inquisitorial proceedings—that is the new title; it keeps changing its name—which will have public hearings, family representation and so on. That is really important because, with public hearings, representation and the chance to ask questions, it looks quite a lot like an inquest. Indeed, that was why the court said, "If that process is going to look like an inquest, you have to have representation for the families." I said to the House of Commons, "I will fix it." That is what the Bill does.

Q285 Gavin Robinson: Secretary of State, thank you for your engagement on this issue. Do not look surprised—I am extending appreciation.

Hilary Benn: It just takes a moment to register; that is all.

Simon Hoare: Write it down!

Hilary Benn: Yes, I've got it.

Gavin Robinson: In fairness to you, you have set out your stall on this issue from the time you became Secretary of State. You have spent a lot of time on it. We will differ on aspects, but you have made yourself available to the Committee and to political parties. That should not go unnoticed.

Hilary Benn: Thank you. I appreciate that.



Gavin Robinson: You know that I have raised issues around veterans protections. I was at the Northern Ireland veterans awards dinner last Thursday. That extraordinary event was crystallised four years ago by a constituent of mine because he wanted veterans to be more open. He wants them to be out there and seen within their community; he does not want them to be ashamed of their service or to feel that they have to hide it. It has been hugely successful, but there was a lot of concern among those present. With dignity and courtesy, they were raising with me their concerns about protections and how protections for veterans have been characterised as protections for them, but they realise that they are not solely so. From your experience, what do you think the veteran community's response has been to the protections as outlined?

Hilary Benn: I think the fact that they are going to come into being and that we are going to legislate for them has been welcomed. However, there remains a lot of fear and worry about what these changes will mean. In respect of immunity, which a lot of this is crystallised around, although it was put on to the statute book, it was never commenced. It was struck down. It never existed. In that respect, the position is just as it has been for the last 27 and a half years. It has not changed at all. As you will know, Mr Robinson, there is a division of opinion. There are those veterans who say—indeed, the three veterans commissioners said—“We are not asking for immunity from the law; we are asking for fairness under it.” I agree with that 100%. There are those who would like immunity but, as this Government made clear—never mind the courts—we came in committing to repeal and replace the Legacy Act. We do not agree with giving immunity to terrorists, which is what the legislation did. We do not agree with that in principle.

In terms of those who did their duty, as the vast, vast, vast majority of veterans who served with such distinction and bravery in Northern Ireland did, I welcome what you said: people should feel proud of what they did, in the face of extraordinary danger—look at the number of those who served who were killed in the course of trying to protect the people of Northern Ireland. I hope they will look at the protections and look at how they are going to be legislated for in the most part. But the proof will be, “How does it work? How does it feel? How is this applied to us?” Only time will answer that question for them. However, this shows clearly that the Government has been listening to veterans and has come up with a really practical set of measures to honour our duty of care to those who served the state, which we take very seriously indeed.

To take one example, not having to go back to Northern Ireland to give evidence to either a coroner's court or the commission is quite important. I have had veterans say to me, “That brings back a lot of memories. I really don't want to have to do that.” The fact that they will be able to give evidence from near where they live is a really important consideration for them.

Q286 **Gavin Robinson:** That is a good point. If you were a veteran who had to go to a coroner's court or ICRIR and you lived in Northern Ireland, would you have the same ability not to attend?

Sharon Carter: Yes, the legislation intends that those who wish to give evidence remotely can do so, unless it is impracticable for them to do so.

Hilary Benn: In other words, to give evidence from elsewhere in Northern Ireland, but not going to the coroner's court.

Q287 **Gavin Robinson:** Is that available to everyone?

Hilary Benn: Some of these considerations are already available to everyone in respect of coroners courts. The right to seek anonymity is already available for coroners courts. We will apply it to the commission, through clause 56 under the legislation. The right to give evidence remotely, as you will be aware, and to have regard to the age and wellbeing of those giving evidence, have to apply to all witnesses—I think probably fairly obviously.

The motivation for bringing in the package is to protect veterans, to be absolutely clear. Some of them, of course, will not—the protection from cold calling, which is very specific to veterans. You could not say that one person giving evidence can be treated in this way and the other person cannot, because that would not be legally sustainable. The motivation is clearly consideration for veterans.

Q288 **Gavin Robinson:** Thank you. Secretary of State, very briefly, because the Chair wants to move on and to shut me down generally—that is her *modus operandi*. That's not true. Protection is not limited to legislation. What falls outwith the legislation?

Hilary Benn: There will be a protocol in relation to protection from cold calling or letters landing on your doormat that you were not expecting. The plan is to have protocols in respect of both the commission and the coroner service that if they wish to speak to a veteran, they will tell the MOD. I suspect that, in practice at the moment, you would probably have to go to the MOD anyway to be able to make contact.

Q289 **Gavin Robinson:** In respect of the coroner's courts, has the Northern Ireland courts service agreed a "no cold call" facility for veterans only?

Hilary Benn: We intend to take that forward through the discussion of a protocol with them.

Gavin Robinson: For veterans only?

Hilary Benn: Clearly, in respect of this consideration, of course for veterans only, because this is about contact through the MOD. That will not apply to other witnesses.

Q290 **Gavin Robinson:** I understand how you can issue a protocol like that for the commission. My question is whether the Northern Ireland courts service will agree to that for the use of the coronial process? If the courts service agrees that through the coronial process, will they also agree to it through the criminal justice process?

Hilary Benn: The criminal justice process is separate. These protections are not applying to the criminal justice process; they are applying to

coroners courts and to the commission. The criminal justice process is entirely separate.

Q291 Chris Bloore: I have the final questions. The new legislation has one mention of reconciliation. I just want you to put on record that it is still a major priority of the legislation how that will be manifested in process. My second question is about part 4 of the old Act, on memorialising: why has that not started yet, and when does the Government intend to start cracking on with it? That is separate and not part of the core mechanisms that are being replaced in the repeal.

Hilary Benn: The removal of the word "Reconciliation" from the title of the commission does not in any way suggest that the Government thinks that reconciliation is not important, but you cannot effect reconciliation by legislation. When I went to WAVE, a gentleman whose brother, I think, was murdered said, "Why do you expect me to be reconciled because you have passed legislation including the word "reconciliation"? I remember saying to him, "I cannot. You shouldn't be expected to." Reconciliation has to come from within. It cannot come because somebody passed a law. The aim is to get more answers for more families—that is the whole purpose of this. In the act of doing that, we hope that it will enable the process of reconciliation to unfold. But it is the families who will answer the question, "Do you feel reconciled?" or, "How have you come to terms with it?" All families deal with this trauma and tragedy in very different ways. That is my first point.

Secondly, the honest answer on part 4 is, we have been slightly busy on one or two other things, like fixing a really not very good piece of legislation. A huge amount of work has been done by my wonderful team, whom I had the chance to praise in the Commons, and whom I will praise again here today. They have been absolutely fantastic. This is highly complex; we have been working as fast as possible to get the Bill published, and we have managed to do it. We have done one or two other things: digitising certain records, which are in the same kind of area as part 4, but outwith its specific provisions; and the official history of British Government policy in Northern Ireland. How far have we got with that?

Sharon Carter: We are appointing historians.

Hilary Benn: We are appointing historians, who will be able to look at all the stuff and produce that. But I want to take forward the memorialisation and the other two main bits, which have momentarily escaped me. Themes and patterns is the second—

Sharon Carter: And the oral history.

Hilary Benn: And the oral history is the third—there we are. A lot of very good projects are doing some of that already. There is the wonderful exhibition at the Ulster Museum, which, if anyone listening has not been to it, I could not recommend more strongly.

Chair: Thank you for your generosity with your time, Secretary of State.



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Hilary Benn: Any time, as you know.

Chair: Thank you.