

Northern Ireland Affairs Committee

Oral evidence: [Addressing the Legacy of Northern Ireland's past: The UK Government's New Proposals](#), HC 827

Wednesday 27 October 2021

Ordered by the House of Commons to be published on 27 October 2021.

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Members present: Simon Hoare (Chair); Scott Benton; Stephen Farry; Mr Robert Goodwill; Claire Hanna; Ian Paisley; Stephanie Peacock.

Defence Committee Member also present: Mr Tobias Ellwood (Chair).

Questions 308 - 371

Witnesses

I: Rt Hon. Brandon Lewis MP, Secretary of State for Northern Ireland; Madeleine Alessandri CMG, Permanent Secretary, Northern Ireland Office; Chris Flatt, Strategy Director, Northern Ireland Office.



Examination of witnesses

Witnesses: Rt Hon. Brandon Lewis MP, Madeleine Alessandri and Chris Flatt.

Q308 **Chair:** Good afternoon, colleagues. Good afternoon to you, Secretary of State, your Permanent Secretary and your strategy director. You are very welcome here this afternoon. It is the first time since the pandemic that we have had you in the flesh, Secretary of State, so it is a double pleasure to see you today.

We are also joined as a guest, as it were—we have this guesting facility in the Select Committee arsenal—by Tobias Ellwood, my Dorset colleague. Dorset is taking over Northern Ireland, with Conor Burns, me and now Tobias here as well. As the Chair of the Defence Committee, he has taken a keen interest in this issue. You are very welcome, Tobias.

Secretary of State, I know you wanted to make some introductory remarks. We know where we are now. We all have an intimation as to where the Government want to land. Could you just walk us through, within your introductory remarks, without sounding too grand, the intellectual journey that has taken you from A to B, the thinking behind it, the whys and the wherefores, and what spurred you to make what is, by any assessment, a very big and bold step in terms of policy development? Secretary of State, the floor is yours.

Brandon Lewis: Thank you, Mr Chairman. Like you said, this is the first time I have appeared before the Committee in person rather than over a screen through Zoom. It is good to be in person. Although across the House we occasionally disagree on things, it is good to be able to do it in person rather than through a camera and a screen. Thank you for that.

I really appreciate the chance to answer that question and give you a few comments. It is important to set out where we came to and what led to the Command Paper back in July. I will endeavour to do that over the next few minutes and the next couple of hours as we talk. I really appreciate the chance to go through this today. It is also important to recognise up front the fortitude and resilience of all those who have lost loved ones or were themselves indeed a victim of a serious incident during the Troubles.

While the Good Friday agreement itself was undoubtedly a catalyst for what we have seen is a more secure and prosperous period and time for Northern Ireland, there is still the reality that there is a legacy of the past, which the agreement was designed to move us on from, that remains unaddressed, as predecessors of mine have rightly highlighted. There are individuals and families right across wider Northern Ireland society who are still challenged by some of the issues from the past and in terms of getting understanding and information around that.

Coming directly to your point, the current system for addressing the past, I would argue, is not working for anybody—it is certainly not working



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well—and particularly for those who were most affected by the Troubles. It has been delivering neither justice, certainly in a sense that many people recognise, nor information to the vast majority of people who lost loved ones during that period. It is also just worth remembering that over 90% of those who died—around 3,000—died as a result of the actions of terrorists. Unfortunately, the very painful reality is that the prospect of criminal justice in the traditional sense is now vanishingly small. The majority of outstanding cases are now over 40 years old, and we know from experience that the challenges of the passage of time mean that both the quality of physical evidence and memory becomes severely diminished. This often means that families are left feeling cheated by the outcome and indeed re-traumatised by the process itself.

A very recent example of this is that of the soldiers who went on trial for the killing of Joe McCann in 1972. In 2013, the HET conducted a review into that case and found that the killing was not justified. It then took another eight years for the case to progress to a criminal trial only for that to collapse, as we know now, within weeks. It is wrong for us to have a situation where we continue to see people subjected to that kind of a structure and situation.

The purpose behind the Command Paper itself was the Government being honest about where we are in terms of being able to pursue criminal justice outcomes, looking at how we can focus our resources on what can honestly and realistically be achieved for as many families as possible, and delivering true and lasting reconciliation in Northern Ireland. As has been clearly identified over the last couple of months—I appreciate people in this room will already have known this—this is a huge, sensitive, complex and difficult challenge. It is one we are determined to do what we can to meet. That is why obtaining information and getting to the truth, supported by full disclosure by the state, is the cornerstone of the proposals that we put forward.

Some people have suggested publicly that the Government's proposals will stop investigations into Troubles-related incidents. I just want to be really clear: that is not the case. We are focused on ascertaining the truth about what happened. Under our proposals, an independent body would be established to produce thorough and robust reports into Troubles-related deaths and cases of very serious injury for purposes of information recovery and understanding. This process would be underpinned by a commitment from us as the UK Government to a level of disclosure that has never happened before.

This is not about forgetting the past. It is not about letting people off or leaving victims and survivors behind. In fact, it is about putting them at the forefront. We have heard many powerful and personal messages from victims. I am clear that the vital role of the victims sector in supporting victims must continue as we move forward. Many victims have benefited from the work of organisations over the last years. We have shown through our role in legislating for the Troubles Permanent Disablement



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Payment Scheme that we are committed to ensuring that those who are most directly affected by the Troubles continue to be supported and recognised as we look to the future. That commitment is still there and it is absolute.

There are many facets to justice. It is clear that the focus on the criminal strand is not delivering. It is not delivering well enough for families, and it will not deliver what families in some cases want. As a Government, we want to put measures in place that will help many more families attain some measure of justice by providing answers—and with answers comes accountability—addressing and acknowledging the suffering of victims and survivors, and helping to build a more shared community understanding of Northern Ireland's past. That is what we are determined to deliver as part of a package that also includes a comprehensive oral history and memorialisation initiatives. While I acknowledge this is not perfect, very few credible proposals have been put forward. I am sure we will get into that in the moments ahead.

Taking such steps, I appreciate, is difficult—I am under no illusion about that—but it is also not entirely new. The Belfast/Good Friday agreement itself made provision for many challenging but necessary measures that irreversibly changed the nature of the criminal justice system for the cause of peace and reconciliation: the early release of prisoners, restricting prison sentences even for the most heinous Troubles offences, and concluding the process of secretly decommissioning paramilitary weapons. Indeed, a recent article by the former Attorney General and Tánaiste of Ireland Michael McDowell stated that a de facto moratorium on investigation and prosecution of IRA members already exists in Ireland.

It is clear that this is a tremendous challenge, and I recognise that these are very challenging proposals for many, including my party, which is traditionally the party of law and order. The Government are genuine in their belief that this is necessary not only to deliver what we can for victims and survivors, but to help Northern Ireland have the ability to refocus on its present and its future, particularly for a generation of people across communities in Northern Ireland who did not see the horrors of the Troubles and whose priorities are jobs, education, healthcare, climate change and other issues impacting Northern Ireland today, some of which we have discussed in the Chamber over the last 24 hours. I believe that this is consistent with the key aims of the Good Friday agreement.

We will continue to engage and reflect on what we have heard. We are considering our next steps carefully. Just very finally, I would highlight that the reason we published the Command Paper is quite important as well in a technical sense. We were having conversations particularly across victims groups and civic society, as well as the political parties, earlier this year. One of the things that came back a few times, particularly following the agreement I had with the Irish Government



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around going into those intensive talks over the summer, from a few groups was, "We are having these conversations and things are being said in meetings, but you have not put anything down on paper for us to take away, assess and have a look at". The purpose of the Command Paper was to deliver something that people could really have a discussion about.

As we said at the time, it was there to inform those discussions. They have been ongoing over the summer. People are still feeding into it. No doubt colleagues will today as well. I look forward to hearing that as much as answering your questions. This will all form part of the decisions we are looking to take in the period ahead before we bring forward any legislation.

Q309 **Chair:** Secretary of State, thank you for that. That was comprehensive. Can I just tease out a bit more detail, if I may? In terms of Stormont House itself, you are convinced that it is dead with no prospect of resurrection in terms of the Stormont House agreement.

Brandon Lewis: I will talk to the Command Paper, because we have not made final decisions around the feedback we have had following the Command Paper. As I said on the Floor of the House, the principles and the pillars of Stormont House in terms of reconciliation, information recovery, oral history and memorialisation are what underpin what we are proposing.

The big change in there that people are focused on is the change in terms of criminal justice. We are seven years from when Stormont House was sat down and agreed in 2014. As Mr Farry outlined yesterday, even two years on from NDNA things have changed, and we should be bearing in mind what has happened. In that period, we have seen cases collapse; we have seen the outcome of things that have been through HET and then collapsed, as I outlined a few moments ago. There are also lessons to learn from what Operation Kenova has delivered and is delivering. Things have moved on. There is also the fact that there were issues with Stormont House in terms of it not being delivered, and there is a reason for that.

Q310 **Chair:** If I can paraphrase, what you look to be proposing is a Stormont House agreement with an overlay of realpolitik.

Brandon Lewis: That is a fair assessment. As I said when I laid the Command Paper, this is about the painful truth for families and victims about what is realistically and practically achievable to do to get information. As I said before, the amount of time people have waited and are still waiting to get to the truth is unacceptable.

Q311 **Chair:** That takes me to my second point. We are all familiar with the phrase, "Justice delayed is justice denied", and some of the cases we are talking about here are decades old. As a Committee, we have certainly heard in related inquiries concerns from lawyers and the PSNI with



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regards to access to resource, both police investigatory or detective resource, and also in terms of bandwidth within the court system. Can you tell us how significant the issue around the lack of resources has been in your thinking?

Brandon Lewis: Resource should not in itself be a defining factor in what we do. It has to be about what is achievable for people. As I say, even if you look at the prosecutions that we have seen this year, they have collapsed not because of resource but just because of the bar for criminal justice being beyond reasonable doubt and what that means in terms of what is achievable. That is as opposed to a structure where the bar is the balance of probabilities, as we saw with the outcomes in the Ballymurphy inquest, which was able to get to some truth and information for families because that bar is different in terms of what it means. That is similar to the case that I outlined earlier on around what we saw from the HET compared to then what happened in that prosecution process. That is more of it.

This is one of the challenges around these structures. Different people have different views and different interpretations of this, but the common view that I have seen from experts is that to move forward in the kind of format we have seen people talk about with the Stormont House investigations system at the criminal justice level would take between 10 and 20 years, probably at the upper end of that. It would take a number of investigators that probably does not exist. That is not just in terms of resources but the physical capability around that.

Even if you had all of that dealt with, you were prepared to go down that road and wait 20 years and could do that, it still does not deal with the issue that, because of the way the criminal justice system works and the requirement of beyond reasonable doubt, you are going to see more and more cases collapsing and therefore families not getting truth and information. For us it is about structuring something that can get the accountability that comes with information and truth.

Q312 **Chair:** That neatly takes me to my third and final opening question. We are all aware, because we have heard evidence, that there are clearly some families who would much prefer to go through the formal police investigation process and have a day in court—above board, proper and clear—and then there are others who just want to know what happened. That can be to help with that often used phrase of “securing closure”, but it can be just getting clarity, knowing and, almost in the finding out, having an acknowledgement that the death of their loved one has been acknowledged and valued by the state in all its manifestations.

There is a huge amount of expectation sitting behind your proposed truth and reconciliation process. My hunch would be that, for quite a lot of people, upon the detail of that will hinge the overall response that they make to whatever it is that you publish legislatively. What can you tell us today about how that would work, where it would work, who would resource it and to what sort of sum, and who you see heading it? I am



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sure we will agree that it has to be vitally important that whoever is heading it and leading it and its spokespeople are a bit like Caesar's wife.

Brandon Lewis: There is quite a lot in there. Taking the first part first, I would say you are absolutely right about the expanse of views within victims groups about what they want—what victims want to see. Of course, it is not just victims groups. There are a lot of victims out there and families of victims who are not represented by groups.

There is an even wider band here, which you have rightly outlined, around those who would like their day in court and a criminal justice outcome, and those who want to get to the truth. There is also a group who do not want to revisit this. One particular story sits in my mind. I will not use names, for obvious reasons, but I know one family where some work was done by the media around a particular case. They got to an understanding of what they believe was the reality of what had happened. When they went to talk to the remaining family member of the victim, the family member was quite furious, because they now have a new family where they have never discussed with this family their previous life and who they are with, and they did not want that. There is a very wide range of people with views.

In terms of that range, yes, we want to respect all those views. At the same time, as I have said before—it is difficult, and I feel this really quite closely, particularly having spoken to people—there is a painful reality that at some stage we all need to be honest with people about what is achievable. Holding out hope for something that is not achievable is not honest. Predecessors of mine have highlighted this point, but we have to bear in mind the point at which we have to own this quite painful reality. Within that, we have to create a structure, a process, a system and an information recovery body that really can get to the truth and get information.

We have seen that this can work, most recently with Operation Kenova, which has not succeeded in any prosecutions but has succeeded in working with families and victims around a better understanding of what happened. In some cases it can be as simple as knowing that an investigation happened and what was done in that. It is important that we get that right. It is also why it is important, as I said in my opening remarks, to be clear with people that we are not stopping investigations. The idea with this body is to really get into investigations and be able to get to that accountability and truth.

Q313 **Chair:** You mean stopping criminal investigations.

Brandon Lewis: You would continue the investigations, but you would change the criminal justice outcome, because a criminal justice outcome has a bar of beyond reasonable doubt, as opposed to what we see in the coronial courts with the Ballymurphy case, which is on the balance of probabilities. That difference means you can get to truth more easily.



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There is also the question around people coming forward with information. The reality is that what we have seen in the current situation is not working and has created this poisoned chalice for people that puts them off coming forward. People came forward through the HET process on the understanding that they could come forward privately to give information, but then were prosecuted. Now, I am not saying they should not have been prosecuted; that is a different question. That puts off more people coming forward. To take an example of what we have seen before, although it was not an official thing, people who took part in the Boston tapes had a similar experience.

Therefore, how do we create a situation where there might be more people, however many or few that is, who come forward with information that is not currently there, let alone us being more open with state records as well? That means that another few families, or many families, depending on who comes forward, get to the truth of what happens. That is really important.

I might just bring Madeleine in on the wider bit about the body and how it works. There are lessons to learn from Operation Kenova. In terms of some of the direct answers to your question, Chair, around who would lead this and how it would be done, it has to be independent, absolutely, but some of the detail around that is what we are working through at the moment, off the back of some very helpful and insightful feedback that we have had over the last couple of months. I will ask our Permanent Secretary to fill in anything that I might have missed out.

Madeleine Alessandri: We absolutely recognise that a critical factor of this body is going to be confidence in this body. There is also a recognition that confidence needs to be won. People will want to see not just what it says on paper about how it will work but how it operates in practice. When we reflect on what Jon Butcher and Operation Kenova have done and achieved, over time they have built up that confidence and that trust that they have full access and they have the powers that they need in order to carry out their investigations, as the Secretary of State refers to, to an evidential standard that is the criminal standard of beyond reasonable doubt.

The body that we would be envisioning will draw on lots of that good practice and understanding from there, but, again, if you have the different threshold of the balance of probability, as we saw in the Ballymurphy case, you are able to get more information out to people without that higher threshold, which takes time. Sadly, we are running out of time for some families because of the passage of the decades. Chris, did you want to add anything on the structure?

Chris Flatt: I would just say as well that our plans in terms of staffing and resourcing have been there since the Stormont House agreement. The Government have always had a commitment in terms of resourcing for the body. We are relying both on the work that we did for establishing



the HIU and the learning from Operation Kenova to make sure we have the plans in place to have a properly resourced body that will be structured and capable of carrying out the processes that the Secretary of State has outlined.

Q314 Stephen Farry: Welcome, Secretary of State. I just wanted to follow up from the Chair's initial question. In essence, there are two different narratives lying behind the Command Paper from the Northern Ireland Office. To date, you have set out the rationale, in your view, as to why the system needs reform and why a different approach needs to be taken. There is also the narrative that is reflected in the Conservative Party manifesto for the general election and, more recently, comments made in the House of Commons to your own Back Benchers by yourself and also the Prime Minister around so-called vexatious claims. Can you clarify this? Is it both of those narratives or one or the other that lies behind this?

Brandon Lewis: First of all, they are not mutually exclusive. Our focus is on a package that works for Northern Ireland, a package that genuinely works for reconciliation and information recovery. If it was purely to deal with the manifesto pledge, that could have been done in a different way, earlier. We had a Minister resign because we were focused on doing it in a way that works and is right for Northern Ireland rather than going down a different route. We have been very clear from the beginning that this is about coming up with a package that works for Northern Ireland and that works for getting to the truth for people and getting accountability.

As we outlined in the Command Paper, to underpin that we have to make what I appreciate is a difficult and a big decision around the criminal justice process, hence that point around the statute of limitations, looking at what is achievable, and being honest about that and what opens up the ability to move to other things.

Q315 Stephen Farry: In terms of the vexatious investigations and prosecutions narrative, you have been asked this on many occasions, Brandon, but can you give us an example of what you believe was a vexatious investigation or prosecution?

Brandon Lewis: I am not going to get into any individual cases or specifics around what different people's views or definitions are, but—

Q316 Stephen Farry: You are saying that they have taken place.

Brandon Lewis: What I am saying, what we have said before and what our manifesto pledge was also clear about is about ending vexatious claims against veterans more generally and the cycle of investigations. We have seen, even this year, cases collapsing; this comes to the point we were making earlier on. This fails everybody. If you take the case that I referenced earlier on, some 10 years ago there was a finding, effectively, of culpability. Then you have had a criminal justice process that has failed both parties, those who were accused and the family of



the victim, because it took them through a process for the best part of a decade and has then collapsed. That does not serve anybody.

Q317 **Stephen Farry:** We need to unpack that, because there is a lot in that. First of all, without going into any individual examples, are you saying that, in collectivity, there have been vexatious prosecutions taken?

Brandon Lewis: I am simply saying, as I have said all along, that we have to find a process that can actually deliver for people. As I said in my opening remarks, the current structure is not working, and we have to find something that does.

Q318 **Stephen Farry:** With respect, Brandon, that is a very clear question that I am asking, which you are deliberately not answering either way as to whether you do or do not think vexatious prosecutions have taken place. Maybe I will ask it in a different way. This goes to the example that you have cited. Vexatious prosecutions would be something that is taken without merit for various malicious reasons. Do you have full confidence that the Northern Ireland criminal justice system is capable of policing itself and that the Public Prosecution Service Northern Ireland will take independent decisions through their own professional judgment and that judges will make impartial decisions based upon the evidence provided to them? That is the natural process of the criminal justice system.

Brandon Lewis: That is a matter of fact.

Q319 **Stephen Farry:** You have confidence that, if there were ever to be a so-called vexatious claim, the Northern Ireland criminal justice system could weed that out.

Brandon Lewis: It is a matter of fact that the criminal justice system and the Public Prosecution Service are independent and make their own decisions. That is not the point I am making. The point I am making is that the process around how criminal justice works, particularly with the bar around beyond reasonable doubt, means that we are seeing cases consistently collapse or not be taken forward in the first place in a way that would not necessarily be the case if it was on the balance of probabilities.

Q320 **Stephen Farry:** There are two separate angles to this. One is whether the system itself is good or whether it could be improved and made better. What I am trying to get at is whether you have confidence that, in terms of assessing anything that would be viewed as vexatious, the criminal justice system in Northern Ireland is populated by professional people, people who—

Brandon Lewis: No, I cannot answer that question, because whether anybody believes any particular decision is vexatious or a good or bad decision is a subjective thing for any individual.

Q321 **Stephen Farry:** I am asking about the collectivity of the system as a whole. It does work in terms of—



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Brandon Lewis: It is an independent system. That is how the criminal justice system works, both the judiciary and the prosecution service.

Q322 **Chair:** Secretary of State, allegations may be vexatious. In the initial investigations, if they were vexatious, they would never see the light of day in court. It is slightly abusive language, is it not, or a misuse of language, to refer to vexatious cases? Allegations may be vexatious, but the initial investigations would weed those out. The point that Mr Farry is making is that if we were all to refer to potential vexatious allegations, it is highly unlikely that, if they were that vexatious, they would ever get through the initial sift to get a slot in a court, which speaks to Mr Farry's point about robustness.

Brandon Lewis: In the criminal justice system, you have an independent judiciary and an independent prosecution service. They will make those decisions. Of course, do not forget that there are cases out there that are not part of the criminal justice system and that are not brought by the prosecution service, which people might have a different view about, particularly in civil actions, which might fall into a different category. In terms of the prosecution service, they are making independent decisions.

Q323 **Scott Benton:** Good afternoon, Secretary of State. Thank you for joining us. Are you able to update the Committee in terms of the engagement on legacy proposals with parties in Northern Ireland over the summer since the announcement of those multi-party talks?

Brandon Lewis: Yes. Those conversations have been ongoing through the summer. In what sort of sense do you mean?

Scott Benton: Can you add a layer of depth to that, Secretary of State, in terms of who you have personally met, who the Government have met, the regularity of those meetings, the scale and whether or not any working parties have been established? Can you add a layer on how this has taken place?

Chair: It might be helpful to have a written note, because we had a few written parliamentary questions on this and we got back, "We are meeting lots of people all the time", which was of itself illuminating but did not—

Brandon Lewis: We are here to help.

Chair: Yes, you are here to help. Thank you, Secretary of State.

Brandon Lewis: Yes, absolutely. I am very happy to put something in writing to the Committee after this. We will keep a note, because I am sure there will be a few other things over the course of this afternoon. First of all, there are a couple of levels around this. We had the agreement with the Irish Government to facilitate a series of meetings between us, and there have been meetings beyond that as well. As a Government, we have facilitated 14 sessions with a range of stakeholders



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to discuss legacy issues that involve both Governments, both the Irish Government and the UK Government, and representatives from the Northern Ireland parties.

Chris Flatt, who is with me today, has been in a fair number of those. Mr Farry has probably been in most if not all of them as well. Of course, we have also been conducting our own bilateral engagement regarding legacy issues. We have spoken to quite an extensive range of stakeholders. I should say that we have been having conversations with people in civic society about this issue from last year onwards. It has not just started in this period since we published the Command Paper. In that period since we published the Command Paper, we have engaged directly with over 75 different groups, individuals and organisations. That is since the British-Irish Intergovernmental Conference in June, where we published that agreement between us and the Irish Government.

That also does not include the feedback we have received in writing from a range of individuals and organisations—I am sure that some of yourselves will have had some of those through the Committee as well—nor does it represent the fact that there are a fair number of meetings and conversations on other issues around Northern Ireland where, in the outskirts or as an addendum to the meeting, legacy will come up. It is one of those issues, as it was even very early in my time in this office last year, let alone through the wider civic society conversations that we have been having.

All of those engagements include representatives from the victims sector, operational partners, organisations who represent veterans and former service personnel as well as academics, community groups and people right across civic society as well as, yes, the parties. I have not finished having those conversations. Particularly with the political parties there will be more to come as well in the period ahead.

Q324 Scott Benton: Thank you; that is helpful. In terms of what you just said, you had 14 different sessions with Dublin involving political parties, and 75 different groups have been engaged. Clearly, the process is ongoing. It seems to me that the engagement has been pretty consistent.

Brandon Lewis: That is the minimum; that is the base. There is a lot of stuff beyond that, yes.

Q325 Scott Benton: Yes, absolutely; I appreciate that. In terms of your answer, could you respond to the criticisms that have come forward from certain members of the Assembly who have suggested there has been a lack of meaningful engagement? It certainly does not appear to be the case to me, having heard what you have just said there. What would your response be to those people in the Assembly who have criticised the process and suggested that there has been a lack of meaningful engagement? Presumably you do not think that would be a fair picture of what has taken place.



Brandon Lewis: No, I do not think it is fair. I do also understand. We put forward in the Command Paper proposals that are really difficult. I fully appreciate that they are controversial and difficult for people. There can be challenges when you propose something. It is the classic thing where somebody says, "You have not listened," but whether you have listened or not is not the same thing as whether you agree. Engagement can fall into that category as well. You can have a meeting with people, but they say, "That was not proper engagement", because at the end of it they have not convinced you of their argument.

I understand that it is human nature, but, being very frank about it, that is part of the challenge. We have tried to involve as wide a range of people as we can. I am still keen to hear from people. We have not made, as I say, final decisions on a range of things yet before we are ready to legislate. The door is always open, and we are very happy to hear further from people.

Q326 **Scott Benton:** Specifically in relation to victims and victims' families, are you able to elaborate a bit more on the engagement with those? What has their reaction been around the statutes of limitations? Do they perceive that to be fulfilling the British Government's obligation to secure justice?

Brandon Lewis: I will say a few things and then, if you do not mind, I will bring in Mr Flatt as well, because he has sat in on a fair few of these conversations as well, just from a technical point of view.

There are a couple of things that I would say on this. As I say, there is no getting away from the fact that this is a very difficult thing that we are proposing for people. It is challenging for people, particularly for people who want to see a criminal justice outcome and have had that hope and aspiration for a very long time. I absolutely understand the sense around that. The victims groups having strong feelings about this does not surprise me. It did not surprise me. I understand it.

There are two points that I would make on that. First, there is the point I have already made here. Although I understand this, there is also a point where, as a Government, we need to be honest with people about what is potentially achievable. I do not feel we are being honest with people at the moment, and we need to be very honest about that. Therefore, in being honest, how do we put something forward that might actually be able to achieve something, get some accountability and get to the truth for people? There are some people who do not want public accountability, but, as the Chair said, just want to know what happened privately. To have something that can cover all of those bases is actually quite important.

There is also the very difficult challenge for people around coming to terms with the fact that the current system is not working. How can we therefore break through that to get something that can work? One of the challenges—again, I am not surprised by this; I accept that there is an



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issue for us in how we deal with this and there has been over the summer—has been, particularly for victims groups, because of the outline of the statute of limitations, a belief that that means there will be no more investigations and people will not get the truth.

This is a point that I will let Chris expand on in a moment, but my experience with some groups and some individuals—I am not saying everybody—is that their anger, frustration or concern around these proposals is around, “That means there is an end. Nobody is going to know what happened. You are closing the book”. That is not what we are proposing. In having these conversations—both the formal ones, the 14 and the 75, and the wider conversations—what has been quite useful and important is the ability to be able to take people through and explain that it is quite the opposite.

We want to have a proper investigatory process that gets to information and gets to the truth. It is very far from the case that we want to end investigations. We want to get more out there, more happening and more quickly. Of course, for lot of people, as the Chair said earlier on, because what they want is truth and information, when they understand what we are talking about in terms of information recovery, we have seen some shifts in people’s understanding of what we are talking about.

There has been a bit of a conflation between a statute of limitations and ending investigations. They are quite separate things, and I would argue that one of them facilitates better, more speedy and potentially a more thorough ability to get to the truth and information.

Q327 Chair: Just before you leave that point, Secretary of State, can you just flesh out the resourcing a little more? If you are focused on speed, more people finding answers or getting whatever, that is a resource requirement. Where does the money come from? Is this an NIO thing? Does the Executive have responsibility for it? Is it shared? Where do the people come from who deliver this truth and reconciliation?

Brandon Lewis: That is a very fair question. As Chris outlined a short while ago, we have had a commitment to this for some substantial period of time. At the moment, we already have a number of people involved in Operation Kenova who have a skillset that is useful to look at in terms of how that has been working.

One of the things we will be working through—again, I will let Chris touch on this in a moment—is in terms of ensuring that you move forward. One of the big differences, of course, is in terms of how Operation Kenova is working at the moment. That has not had any prosecutions. The timeframe that we are seeing for these cases and the fact that the cases collapse is not just because of the resource; it is around the amount of resource that you need to also work to a criminal justice level of beyond a reasonable doubt. It is quite different when you are working on the basis of the balance of probabilities.



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Chair: Yes, of course. I appreciate that. We are talking about two different things. That is a given.

Brandon Lewis: It plays into the resource point.

Q328 **Chair:** Yes, absolutely. What is your assessment, or Mr Flatt's or Ms Alessandri's assessment, of how many, for want of a better phrase, bums on seats—forget who is chairing it, who is going to be the front person for it—you reckon you will have? Who is going to be paying for those bums on seats? In your assessment, it sounds as though we are relatively close to the publication of some legislation, so this must be fairly well advanced. What is the quantum that we are talking about here? Is it 30 people working on this? Is it three people? What is it?

Brandon Lewis: I am not going to commit to a specific number, but, equally, I am not going to avoid answering the question altogether. We are talking about a substantial team, but let me just let Mr Flatt come in, and then I will come back.

Q329 **Chair:** You have said that justice delayed is justice denied. Speed is of the essence. You are only going to get speed, the speed that is your only vehicle for delivering satisfaction, if it is up to scratch, up to speed and ready to go from day one. What is the official technical assessment of the skillset required and how many people you envisage staffing this truth and reconciliation body?

Brandon Lewis: I am not disagreeing with you on that, but it is also not just about the bums on seats, to quote you, Chair. It is also about how they are approaching what they do, whether it is that one bar or a balance of probabilities bar. In terms of the approach, something that has not been particularly played through but is important is around the amount of information and the amount of access they will have to that information, particularly to the information that the Government hold.

I will let Chris Flatt come in, and then I am happy to come back or to bring in Ms Alessandri.

Chris Flatt: One of the proposals that we set out in the Command Paper was that, rather than taking an approach of looking at every single case, what we would be saying is, as the Secretary of State outlined, there are some families who just want to leave the past behind them. So what we would want is something where people can request cases to be looked at or it might be that the Government refer cases in where we have obligations on us that a case requires being looked at.

What we do not yet know is what the demand for this will be. Anecdotally, we hear quite often that there will be many families who want the past left behind, but we do not know that for sure. We will need to see what the response is when the body is set up. Similarly, we want to leave a significant amount of the planning for this to the experts that we put in place. We want to rely on the experience of Operation Kenova



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but also previous experiences from the HET and other learning from other large investigations from across the UK.

To an extent, it is going to be demand-led. I would expect that it will probably start off and build up as it goes along. What we would want is a body that can hit the ground running and get working very quickly and then potentially build up as it goes forward. In terms of that resourcing, we still have the commitment that we made in the Stormont House agreement to funding for the body from the UK Government. That remains in place.

Q330 Chair: Can I, dreadfully impolitely, suggest that, on the presumption that we are going to see a Bill in due course, that needs to be far more fleshed out? There would be some people, playing devil's advocate slightly, who would just say that this truth and reconciliation thing is a lip-service idea. Criminal prosecutions, etc., have not come forward—although not solely—because of access to resource of both investigators and prosecutors, as well as bandwidth within the court system. It just strikes me as just being a little bit on the back foot, a little bit reactive, to say, “We are going to have three people sitting in a room, and then we will wait and see how many people make a telephone call and then resource it up”. It has to be ready to go from day one.

Brandon Lewis: That is a very fair point, but that is not where we are in the sense of—

Chair: That is what I heard Mr Flatt say.

Brandon Lewis: We are not in that kind of world. When we come forward with the formal proposal around the information recovery body, it will be much more fleshed out, not least of all for the very reason I outlined, recognising that for a lot of people's concern and frustration has been that this is the end of investigations when in fact it is not. This is about making sure we have a really thorough investigative and information recovery process. We have to in order to make sure we are Article 2-compliant. We are very clear about our commitment to that.

That is very much in mind, but we are still working through, as I say, some of the feedback we have had over the summer and are still having from interested parties around some of the nuances of this. As I say, there are learnings from what we have seen both through the coronial process of Ballymurphy and Operation Kenova.

Madeleine Alessandri: It is really equally important that, as we set up the body and it has an independent head, the people who are leading that body will also need to make some decisions. They will have some room to make their decisions about what they need to be able to deliver the task that is given to them. It is not possible for Government to lock everything down, and nor would I argue that it is necessarily the right thing for Government to do. You will want to have people who are professionals in investigations to be able to do that.



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Q331 **Chair:** Yes, but does somebody have, on the back of the metaphorical fag packet, an organisational chart as to the types of skills and resources that will be required, the sort of money there will need to be, the sort of premises that it would need to operate from, et cetera?

Madeleine Alessandri: Yes.

Q332 **Mr Ellwood:** Thank you for inviting me along. This is such an important issue. I should make a declaration. I served in Northern Ireland, but I am very pleased to have the opportunity to discuss these matters.

I am very conscious that it is the legacy of this issue that we are dealing with, and that is reflected in the very tragic death of Dennis Hutchings, who was facing a trial and being asked questions about an incident in 1974, and yet very sadly died whilst attending trial in Northern Ireland. That shows you the time length that we are dealing with.

You have come in here, and you have the invidious situation of trying to work this through and get a solution. My first question is about the stakeholders that need to approve this. Please could you explain for the record who needs to give the green light to make this happen and which bodies need to formally approve this to confirm that this will go from being a Command Paper to legislation?

Brandon Lewis: In terms of when we lay this, that is a decision for the UK Government. What happens with the legislation is a matter for the UK Parliament. I would like to be in a position, by the time we are ready to legislate, to have secured support from political parties and interested parties. There are supportive voices and people out there.

I appreciate that at the moment there is a lot of noise around the Command Paper. As was pointed out—I cannot remember whether it was yesterday or today—in a question, there has been a lot of noise against these proposals. As I say, our job in the period ahead is to do the work we need to do following the feedback we have had and some of the points around that. I have to say that there has not been an underlying suggestion of alternative proposals, but there are quite a lot of comments around how you do information recovery and some of those things, which we are working through at the moment.

Going back to the conversation we just had with the Chair, we need to be able to flesh out and explain to people exactly what information recovery is and just how far it goes. I also fully accept that the reality is—this is a point I was going to say at the end of what Ms Alessandri said—that the proof of that will be in the pudding. When we actually come forward with that proposal, I would hope that people see that we are very serious about making sure we get to the bottom of what happened for people.

Q333 **Mr Ellwood:** You talked about the noise rather than the interest in the Command Paper itself. Would you agree that all sides need to compromise on this? In the absence of any plan B, would you recommend that this is the only way forward at the moment?



Brandon Lewis: If you go back to the Belfast/Good Friday agreement, it is a very strong lesson. There are some very difficult things in there as well. It was a big step at the time, and everybody had to make difficult compromises to move things forward. There is a challenge for all of us around difficult decisions and difficult compromises in order to move forward. You have to look at where we were with the Belfast/Good Friday agreement, the sentencing Act that came out of that, decommissioning, et cetera, and where we are today. What is that next big step forward that really does help move things forward in a way that, in one form or another, can be positive for Northern Ireland?

Q334 **Mr Ellwood:** You and I have spoken—thank you for the briefings as well—and I am aware of how committed you are to trying to get this to a resolution. I am a little bit concerned, being a veteran myself and in fact a current reservist, that the bar was raised rather high at the Conservative Party conference back in 2019. It was promised that there would be something heading towards the statute book in 100 days. Is it fair to say that was a bit presumptuous?

Brandon Lewis: In terms of dealing with Northern Ireland, two things have happened in between. We had a commitment in NDNA as well to move within 100 days to deliver on the principles of Stormont House. A couple of things have happened that have affected this.

One is that we all had Covid to deal with. This is something that I had very expressly put to me by some of the bodies that we were talking to in the first part of last year. Once Covid and lockdown, particularly, came across people, there was a point where I was talking to some people around legacy, and they were making the point that the very families and victims that they were supporting for legacy were also the people who were the most vulnerable from Covid, and that having this conversation while they were dealing with that just was not appropriate. It was sensible to pause through that period. It was a capacity issue for everybody involved.

It also reflects the reality of just how complicated, sensitive and difficult this issue is. It is an issue that has not been dealt with for a very long time. Predecessors of mine have talked about trying to deal with this since the Good Friday agreement back in 2006 and beyond. It is a difficult and complicated issue, and it just reflects that reality.

Q335 **Mr Ellwood:** When you were trying to win over the veterans who are involved here, you were asking them to be seen on a parity with all the stakeholders involved. There was a concern that they did not want to go there. You are asking them to recognise that there has to be a compromise. I am just hoping that you will recognise the promises that were made about raising the bar and saying that we are going to get somewhere so early in 2019, when clearly there was nothing coming forward.

We had an Armed Forces Bill and then we had another MoD-led Bill that



dealt with other legacy issues separate to Northern Ireland, but for Northern Ireland there clearly was not anything. This is the closest we have come here today.

Brandon Lewis: Yes. I also want to give huge credit to the Secretary of State for Defence as well, who, like yourself, served in Northern Ireland and therefore understands and has been hugely supportive of taking an approach that is focused on an approach that is right for Northern Ireland. He is very supportive of us working together to find a solution that works for Northern Ireland.

This is also about recognising that, following the Belfast/Good Friday agreement, whatever we do has to apply across the board. That is the reality of where we are. We are in no way—I said this on the Floor of the House—accepting that there is an equivalence between people who went out courageously to defend people with the people who committed terrorist atrocities, from whichever angle they were doing it. Those people are terrorists who sought to both terrorise communities and kill people. There is no point at which I and the Government would ever accept there is a moral equivalence there. There just is not.

From a legal point of view, in dealing with a process that can help us get to information, it is important, following the Good Friday agreement, that we do it in a way that is legally robust and sound for the people, the victims and the veterans in Northern Ireland.

Mr Ellwood: I am very pleased that you have said that and made it very clear. It is so important for the veterans to hear that.

Brandon Lewis: Absolutely, yes

Q336 **Chair:** Secretary of State, just before I call Mr Paisley, aligned to that equivalence question, to which you have very clearly set out the Government's position, is a concern that I know some in the military have expressed. If I can paraphrase, the concern is that everything that the terrorists did was wrong; there were some things that the military did that were wrong. By providing, for want of a better phrase, an amnesty for both, the vast majority of military, who conducted themselves properly and all the rest of it, feel there is some sort of whitewash going on, for want of a better phrase.

How do you mitigate against that without stoking the idea that the British Government are here to effectively cover up the work the British Army and others did because it was all wrong per se? How are you proposing to deal with that either legislatively or in narrative terms?

Brandon Lewis: That is a very fair point. There are a couple of levels. Like there is across sectors, there is a wide range of views within the veterans' sector around what they would like to see, what people want and their views on this. It is right to recognise that up front.



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First of all, this is not an amnesty. I appreciate that people have done and no doubt will refer to it as that, but technically it is not. We are not pardoning anybody; we are not accepting moral equivalence. The statute of limitations is legally the right description for that. That is where it also comes back to this being about looking at what is the best way to help Northern Ireland move forward and to help the families of the victims and the people in Northern get better understanding, knowledge, information and truth. It is about achieving that.

That is why the statute of limitations would have to apply across the board. That is just a legal practicality, but it is also a practical practicality—excuse the double point there—around creating an environment in which we may well be able to get to more information. As Ms Alessandri said, as people are getting older, we have a limited period of time where there is an opportunity in which some of the people who might have information may be willing to come forward, whatever their position was previously, to share information that may well help one more, five more or 10 more—whatever it is—families get some truth that they are otherwise not going to get.

Q337 Ian Paisley: Twenty-nine years ago, Colum Marks, an IRA terrorist, was shot dead at Downpatrick by an undercover police operation. There have been three inquests, and a Police Ombudsman investigation is ongoing. The officer involved in that case and the police representative body have all said that this is a vexatious case. For future reference, Secretary of State, it is important that it is on the record that there are ongoing vexatious cases against serving officers, which causes plight and trauma to them and their families 30 years after the event.

It is important to acknowledge that your Government are not starting from a good place. It is not your fault; it is not your Government's fault. All terrorists were let out of jail after the Belfast agreement.

Chair: I am sorry to say this, Mr Paisley—I never thought I would be saying this to anybody with your surname—but could you speak up a little bit?

Ian Paisley: All terrorists have been let out of jail since 1998. We then had Tony Blair's on-the-run letters—the secret on-the-run letters that were revealed. It is not a good starting point when justice has already been trashed in many people's eyes, from which you have to pick up the pieces. That does not then give you the excuse to say, "Let us continue with the trashing of justice".

I want to turn to your ECHR compliance issues—your European Convention compliance issues. The Government signed up to this and are a signatory to it. You have indicated in earlier comments that you believe that you are compliant with article 2 with regards to the protection of the rule of law. I am wondering how you think you are compliant with article 6 on fair trials, with article 8 on privacy and with article 17 on the prohibiting of the abuse of rights. The UN rapporteur and the PACE have



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both said that there would be a violation of international standards and obligations by these proposals if they are carried through. I am wondering how you believe you are complying with your European Convention rights issues.

Brandon Lewis: I will bring in Ms Alessandri and Mr Flatt on a couple of those points, but I will go to the heart of that and specifically address some of those points. Your opening remarks, Mr Paisley, were around some of the examples of what has happened and the point from which we are coming. You are right to highlight this, because it is very important. Nobody in this room but some people look at this as if it is a blank sheet of paper, and it is not.

We are coming to this from what was agreed at the Belfast/Good Friday agreement, let alone anything that went before that, the sentencing Act that flowed from that, and the range of issues that you have just mentioned, including decommissioning. Of course, there are different views around what was agreed at Stormont House. As I outlined earlier on, we heard the ex-Tánaiste and Attorney General's comments around what the Irish Government have done as well in respect of having, effectively, a moratorium on prosecution.

This is not a blank sheet of paper. The point I am making is about being honest with people about the reality of where we are and not pretending that we are in a situation that is like you would see in more traditional criminal justice cases around the UK or indeed anywhere else. This is different, because of what has gone before and the legislation, among other things, that has preceded where we are. Therefore, what is the honest assessment of where we are and how we move forward?

I saw the reports that we have seen over the summer. I would say a couple of things on that. The feedback we have had over the summer, including those reports, are some of the things that we are looking at in terms of how to go forward.

My point around our compliance with the ECHR is that we have to ensure that what we do with the information recovery body and how it works is article 2-compliant. The onus around that is on us. If it is not, we will be challenged around that. It is absolutely paramount for us to ensure that it is. I would also just say—this plays into a point that I made earlier on around some of those reports—that, with the greatest respect, those reports do not fully appreciate what we are talking about in terms of information recovery. They come from an angle that is effectively assuming that we are not going to have investigations. As I have explained to the Committee, that is not the case.

When we eventually come forward with final proposals, once we have made some final decisions around these things, I would hope that people will see that what we are looking to do will be compliant, because it is taking forward investigations in a proper way. I will bring in either Mr Flatt or Ms Alessandri on some of this, if they want to come in as well.



Madeleine Alessandri: I would underline what the Secretary of State has just said. We are not starting with a blank piece of paper here. I recognise how hard it was for many people and for many families in 1998 with the release of people who were in prison for terrorist offences. That caused understandable outrage and distress, but it was a thing that we did to secure the peace. The Northern Ireland now that I visit and spend a lot of time there, 23 years on from that, is immeasurably different and a safer and better society as a result of all of that.

It is not a blank sheet of paper that we are starting from. There have been these steps that were taken before. As we look forward now, we will absolutely do everything we can to make sure we are compliant with our article 2 obligations in the way that we construct the investigations, which we have talked about with this Committee earlier on this afternoon. Chris, did you want to add to that?

Chris Flatt: The views that people have expressed so far are views that are not based on what our final policy will be. We have been listening to those views and others, and the final policy proposals should be the ones that people make their full assessments of in terms of compatibility with our obligations. We are well aware of our obligations. In terms of article 2 in particular, the procedural obligations are around having independent and adequate investigations that are prompt and have public scrutiny. That is the basis around which we will be designing this: these will be investigations that can comply with those obligations.

We are setting out something that is a new approach and people will want to look at it carefully, but, as the Secretary of State says, Northern Ireland has many times in the past required a new approach. If people look at it fairly and assess our proposals carefully, I hope they will see that we are trying to do the right thing to set out a way forward that does comply with our obligations but actually delivers something for victims and others.

Brandon Lewis: I have referenced a few times the methodology that Operation Kenova has been using in terms of how it is getting to information in its investigations. It is just worth noting as well that independently that has been assessed—this was quite recently, in the last month or two—to be compliant with the ECHR. There is a way of doing this. Of course, that has not led to prosecutions, but it has been still seen to be fully compliant.

Q338 **Ian Paisley:** You accept that, if you change the law in line with your proposals, it changes the standard in Northern Ireland and how it applies. That does not make you compliant with international standards. It just means that you have changed the law and how it operates. Therefore, it is a breach of article 2. It is certainly a breach of article 6, because fair trials are removed, in terms of the international standard of a fair trial. If you cannot take a person to trial, article 6 is breached. Then you breach article 17 in terms of abusing the rights of someone to have a fair trial.



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It is not just about article 2; it is about the entire thrust of the convention. Do you not recognise that this is potentially putting a coach and horses through the European Convention, which you are signed up to, on something which the European Council has said in writing to you that it is very concerned about?

Brandon Lewis: As I say, Mr Paisley, with greatest respect to the Commission, its report does not reflect on what our final proposals will be or take fully into account what we are proposing around what the information recovery will be in terms of investigations. Article 17, in terms of a fair trial, is a different issue, because there would not be trials in the sense of criminal justice trials. That does not quite play into it.

We are very clear that we have a commitment to ensure that what we do is compliant with the ECHR, and that is the work that we have been working through, not least of all from the feedback we have had. Our focus on information recovery and the investigatory process to be able to secure that absolutely has that in mind.

Q339 **Chair:** Ms Alessandri, can I just take you back to one thing you said? Maybe it is more appropriate for the Secretary of State to deal with this. I know you dispute the use of the word "amnesty", but Mrs Thatcher always used to dispute the phrase "poll tax"; she always referred to it as the "community charge", and she was the last person using the phrase "community charge" when everybody else was talking about the "poll tax". People are going to call it an amnesty whether you wish them to or not.

The younger generation could turn around and say, "We are passionate about issue X, Y or Z. This is a political issue. We are not getting through to our political masters. We are going to resort to violence, mayhem, whatever. Do not worry. As long as we keep our heads down long enough, we will somehow or another, over a period of time, find that all of our sins are washed away and we will never have a day in court". How do you arrest it from becoming effectively a carte blanche for future violence, given what you are proposing to do for the men of violence who perpetrated terrible things some years ago?

Brandon Lewis: That is a very fair question. I will let Ms Alessandri come in, but, if you do not mind, I will pick that up first. It is a very fair question. There are a couple of things that I would say to that. First, of course, we are looking at a period of time for which you could argue that that is in some form already the case. I take your point around what I have referred to as the statute of limitations. I acknowledge how people will refer to it, but there is an important legal difference. For us, that does matter.

Chair: Yes, you know that; I know that; we know that.

Brandon Lewis: That is why I hope your colleagues will excuse me for continually making that point, because it does matter, not least all for the reasons that Mr Ellwood outlined but from the wider point of view as well.



It also plays into this point: this is different. People often talk about the unique circumstances of Northern Ireland, and that is a reality because of the tragedy of the past, but we are also talking about a very specific period of time. To an extent, some people might argue that this has already changed, in the sense of what you can and cannot do, because anybody who was involved in a crime up to and before that point already, because of the sentencing Act, is not going to serve, even if they were convicted in the last few years, the sort of prison sentence you would serve for that kind of behaviour, for murdering people, et cetera.

That is already there. Again, this comes back to the reality of where we are in terms of what has happened from the sentencing Act onwards, with the range of other things that Mr Paisley rightly outlined. It is also for a very specific issue over a very specific period of time, not anything that goes beyond it. Again, that plays into why it is important that this is a statute of limitations and not anything more than that, but I will let Madeleine come in.

Madeleine Alessandri: None of us wants to see any return, obviously, to the atrocities that we saw in the Troubles. Our Department is very focused and works hand in glove with the devolved Administration, indeed, on these issues to make sure that is not the case.

I would just use this opportunity to pay tribute to the community workers on the ground who are working tirelessly day in, day out, with young people who are still largely in social housing, living in segregated communities and going to segregated schools. When we go out and we talk to young people directly, they have a real thirst for meeting their friends across the divides, across the peace walls, coming together and putting the past behind them.

The dark days of the Troubles is a very specific period, and this statute of limitations, if that is what it is, is recognising that, with the passage of time and the decades that have gone, the realistic chances of bringing prosecutions are tending now to zero. That is the hard fact, which we need to be honest with people about. For young people today, we need to be continuing the work of supporting the community workers and supporting the people who are on the ground to bring communities together and who are forwarding those friendships. That is the very bright future that we see for Northern Ireland, building on some really exciting green shoots in prosperity as well.

Chair: Whatever is set out, whenever it is set out, that needs to be set out very clearly.

Brandon Lewis: Yes.

Q340 **Claire Hanna:** I just want to pick up on the Chair's point, because there are unfortunately very mainstream political voices in Northern Ireland who essentially say that violence as a political tactic was acceptable when we used it three decades ago or 10 decades ago. Unfortunately, despite



the efforts of many of us to try and put an end to the concept of political violence, there will be a message, particularly as we enter a period of constitutional turbulence, that murder for political purposes has been retrospectively exonerated or decriminalised. That is something that is going to have a legacy into the future, given that there are live cases of harassment of victims by perpetrators. As I say, we have the continued celebration and promotion of violence as a political tactic. This will not be helpful going forward.

NIO's own analysis of the responses to the Stormont House Bill consultation said that the clear majority of respondents were against the concept of a statute of limitations. As others have touched on, the consensus from legal experts, from political parties and from interested international observers is that this is not the right approach, it will not further reconciliation and it will suppress truth actively.

What evidence do you have to inform the Command Paper's claim that criminal justice routes and information retrieval are to the detriment of reconciliation? What are you basing that claim on?

Brandon Lewis: I have a couple of things here. There are also voices out there who have been supportive of the proposals set out in the Command Paper. I appreciate that there are a lot of voices out there that are not. That is always going to be the nature of something that is as challenging and as difficult as this, as I said when we published the Command Paper. I do not deviate away from that or shy away from that; I have made that point a few times today.

For us, the publishing of the Command Paper and what we outlined in the Command Paper was around this recognition that the current system is not working. It is not delivering for people, and we have seen that consistently. It also works both ways in terms of information recovery, as we have seen in the case I outlined earlier on today. It is about how we move forward in a way that can actually facilitate getting to the truth, getting information, in a way that just is not happening at the moment. As I said, we also have to be honest with people about the reality of what is achievable. That is where the methodology that led to the Command Paper came from.

Q341 **Claire Hanna:** It is not happening and it is not working because it has not been allowed to work, because the agreed infrastructure has not been implemented. It is worth saying that your colleague—

Brandon Lewis: I am not sure I entirely agree with that.

Claire Hanna: It has not.

Brandon Lewis: I know that people have made that point, but it is not just that. That does not answer for the cases that have been collapsing because they cannot get to the level that you need to get to in order to have a criminal justice outcome. That in itself has meant that other people are not able to get access to information in the way that they



could, for example, with Ballymurphy, because that did not work on a criminal justice level.

Q342 **Claire Hanna:** The point is that the Ballymurphy families did not have access to that information because the information was actively suppressed for five decades. They had to pull and claw at every scrap of information that they got. There was not a natural process that prevented it from happening. It is worth saying that your colleague Conor Burns said that he would be open to proposals from the five parties. The parties have been clear in their opposition publicly to this.

It is also worth mentioning some of the analysis from international experts in the global context. They assessed something like 290 amnesties or statutes of limitations around the world and found that this was the most egregious. They compared it to, for example, being worse than the Pinochet amnesty in Chile. The Command Paper made reference to the South African example, and members will be aware that in South Africa the amnesty was conditional on engagement with the truth recovery process. Individual applications had to be made by perpetrators or alleged perpetrators. Families had representation. Essentially, full disclosure was required.

What consideration have you given to making your proposed amnesty or statute of limitation conditional on co-operation with truth recovery?

Brandon Lewis: We are looking at a whole range of things that have come in. That is exactly the point I have been making this afternoon. A whole range of things have been raised through the process. As Minister Burns rightly said, we are interested in what all five parties come forward with. The five parties have not come forward yet with an agreed proposal between all of them. Information recovery and how that works is one of the areas where we are looking at all of the feedback we have had, not just over the summer but in the period before we started this more formal and structured outline, as I said in response to Mr Benton earlier on. That is all part of it.

I would just say, as I said to Mr Paisley, to the Commission's point and the reference to the Pinochet thing, again that falls into the trap of not appreciating that investigations will continue. Partly it is our responsibility to outline when we come forward with our proposals exactly what we mean by this; as I said, the proof of this will be in the pudding, and the onus is on us. Investigations will be done thoroughly. Information recovery is a serious process.

I take your point about Ballymurphy; there is an issue for us. I said this on the Floor of the House. That is not acceptable, and we need to get away from a system where it takes people 50 years and to have to go through that kind of experience to get that information. That is on the state. We need to own that reality and deal with that as well. That also means us being more open, publishing more information and making



available more information than we have ever done before, and we are committed to do that.

I might let Madeleine Alessandri come in on that specific point as well, if that is okay.

Madeleine Alessandri: There is something about how you can most effectively get most information to the people who wish it, recognising that not all families wish it—or in cases where there is state involvement and there is an obligation on the state—in the most effective and speedy way possible given the passage of time. That is why we are looking at complete commitment in terms of access to state records. This body will be able to look and understand exactly what the records show.

Having a single body and a single point that people can go to would, I hope, alleviate the stress that undoubtedly families, victims and others have been under of having to go through a whole host of different processes, because you would have one place to go to.

Brandon Lewis: As I say, there is going to be an onus on us, as the Chair said earlier on, to prove our mettle in terms of information recovery and the UK Government making information available beyond what we have done before.

When we had this conversation at the BIIGC and in the note that we published at the time around having these talks, there was also a commitment from the Irish Government to legislate as well. I have not yet seen what they are proposing, but I am hoping that they will match up, at the very least, to what we are talking about in terms of information recovery and information accessibility for people. I know for many in Northern Ireland that has been a frustration as well. I am hoping the Irish Government will work with us to match up and live up in terms of information recovery and publication as well, in the same way that we are.

Q343 **Claire Hanna:** I know we will come back—there is other ground to cover—to the issue about what engagement you are having with victim makers, because the fact is that it is they, in and out of uniform, who are preventing information recovery and comfort being given to victims. It is very difficult to see what in these proposals would compel or persuade them, if they have not done so to date.

I briefly want to ask what specifically you are proposing for civil cases and inquests at the moment.

Brandon Lewis: That is set out in the Command Paper, but, as I say, one of the things is that over the summer people have fed in on a whole range of things, including on civil cases. We are looking at that at the moment, but we have not made final decisions yet.

Q344 **Claire Hanna:** It would seem to many people that, particularly in terms of the civil cases that are either underway or scheduled, stopping those



processes or arbitrarily putting a guillotine on them would be particularly obnoxious and offensive to people who, again, like many other families, have waited years and decades for that information, which has been withheld from them.

Why would not you allow the inquests that are in the Lord Chief Justice's plan to run their course? Why would you not allow inquests that are underway or scheduled to run their course? After that, assuming by this stage it will have demonstrated its bona fides, the remaining cases could be put through your information retrieval body. Why would not you allow those to continue?

Brandon Lewis: People have been feeding in on some of these areas, exactly as you say. I recognise your point, particularly on the civil cases. People have fed in from a wide range of backgrounds. It is one of the things that we are looking at; we have not made a final decision on this yet.

If you have an information recovery body—you are not arguing for this, but it is the point you are making—that is up and running and working in the way that we envisage and that we are committed to doing, it is logical that the cases that at the moment are forming part of an inquest would go into that body, because then you have one clear body, as Ms Alessandri outlined, that can deliver for people.

From the feedback over the summer, we are looking at exactly where you draw that line. We are listening to that kind of feedback. I have heard that and we are looking at that at the moment, but we have not made final decisions yet.

Q345 **Claire Hanna:** Finally, Mr Farry discussed some of the claims, the language and the abuse of language. Boris Johnson, on the eve of the Tory party conference, talked to the BBC about "10% of killers" and "90% of killers" when in fact he was talking about the facts of prosecutions and convictions, notwithstanding the discussion about which cases the DPP is bringing forward or has not brought forward. Will you personally undertake to correct the Prime Minister's misunderstanding, misinterpretation and mishandling of these figures? This is contributing to some of the mythology, which you spoke about, and the misunderstanding of what is and is not going on in legacy.

Brandon Lewis: My experience of talking to and dealing with the Prime Minister on these issues is that he has a very clear and detailed understanding. He has been absolutely supportive and 100% focused on us working on a set of proposals. That is why he has given us the space and time to do this. As somebody mentioned earlier on, there was originally a commitment of 100 days. There were the complications and we had Covid, as I said earlier on, but the Prime Minister has been hugely supportive around making sure we all take the time to thoroughly work through this and to come up with a set of proposals that work for Northern Ireland, looking not least of all at the feedback we have had



over the summer, at the moment and from last year as well. He has been hugely supportive of that, and he does understand fully.

As I said in my opening remarks, I would not disagree with anybody who highlights the fact that, of the deaths that we saw in Northern Ireland, there are roughly 1,500 cases that have not been investigated at the moment, and the estimates are that around 90% of those are at the hands of terrorists. That is the reality of where we are. The Prime Minister is right to highlight that, and we should be clear that none of us would ever condone that.

Going back to your first question and one of the points that you made, we also need to be clear about sometimes making a differentiation here. I know you yourself have rightly done this, as have some others, but we could see this more widely in the media. In Northern Ireland, there are bodies, organisations, groups or people who try and clothe themselves in what they see as some kind of probity around being political campaigners when in fact they are drug dealers. They are just criminal gangs and should be called out as such. We should not tolerate them being considered anything else. They are criminal gangs who should be dealt with appropriately and properly by the authorities. That is relatively successfully being done through the great work of the PSNI and partners.

As I say, in my work with the PM, I have seen him as somebody who is very focused on doing what is right for Northern Ireland and somebody who has a very thorough and solid understanding of the situation.

Q346 Robert Goodwill: I would like to ask you a little about the oral history archive. As you know, in December 2014, as part of the Stormont House agreement, it was decided to establish an oral history initiative by 2016. It is now a little past then. Do you still see this as an objective you wish to deliver? Have you talked about the budget for this? Have you talked to community groups? It is not going to be a Government-led thing. What is the latest on that?

Brandon Lewis: Yes, absolutely. I will bring Mr Flatt in particularly in a second. Again, this is one of the things that came from Stormont House. There have been some pieces of work around oral history. It is important. You are quite right: this would not be led by the Government. Like the information recovery body, this has to be led independently of Government. There are a range of groups, organisations and museum bodies that we have spoken to that have experience in this and that are doing some good work on this.

This is important at a couple of levels, and I come back to a technical point here as well. It is important. This is something that I picked up early last year, particularly from wider civic society. We have talked a lot today quite rightly about victims and making sure that we are delivering for victims and the families of victims. There is also a wider part of civic society who do not see themselves as victims and were not victims in the sense of being a victim of violence directly or having personal injury for



them or anyone in their family, but who were part of Northern Ireland through the Troubles and who lived through the fear or the experience of that. They have made the point to me—I know colleagues have made this point a fair few times—that they want an opportunity to tell their story of what that was like.

Q347 Robert Goodwill: Thirty-nine per cent. of people experience a traumatic effect of the Troubles. That is a big proportion of the community.

Brandon Lewis: Exactly, yes. I have had people talk to me about the experience. Although they did not actually see something or have personal experience of it, they were always wary or cautious of going to the pub, the shops or the cinema. They know what that felt like, what it meant. Businesses have also talked about what that meant in terms of investment, the ability to grow and inward investment to Northern Ireland.

That wider ability for people to tell their story in a safe space is an important thing to be able to put together and to offer. How the principles of that were outlined in Stormont House were absolutely right, and we are keen to work on and deliver that. I will let Mr Flatt come in.

Q348 Robert Goodwill: I was there in 1979 for a couple of weeks and I thought it was strangely exciting. I suspect if I had been there more than about two weeks, I would have found it desperately depressing and frightening, to be honest.

Brandon Lewis: One of the important things about the oral history that has been put to me by a number of people is that we have a generation of younger people in Northern Ireland who were not born at the time of the Troubles. If an oral history is done correctly, it also serves as an important reminder for people, or an explainer and an education for people, in terms of what it was like to live through that, the actual experience on the ground of going through that. That is quite an important piece of history that civic society wants to share with the younger generation.

This is one of the things that we are looking at and talking to people about. Ultimately, an independent body needs to decide what is right and use their expertise, rather like what we were talking about earlier on around the operational partners in terms of information recovery. Things like, for example, the ability of people to have proper access to this, transparency about it and a digital record that people can access are the things that are quite important. I will let Mr Flatt come in, because I know he has had some conversations around this directly as well.

Chris Flatt: The oral history archive does go back to the Stormont House agreement. I always thought it was potentially the most important part of the Stormont House agreement, because, as you have said, it is the part that most people can get involved with. It is not about limiting it only to the relatives of those who died or certain victims. Anyone affected by the



Troubles could be involved. It also has that potential, as the Secretary of State says, for real intergenerational resonance across the years.

It has an immense value, but the challenge we got into with the Stormont House agreement was that we were ending up with quite a bureaucratic and rules-based body, which was not really taking full advantage of the potential. Where we are trying to get to now is to recognise that we should be looking to the experts in this area, both in terms of academics and community groups, who have experience of pulling together oral history already. We should be relying on academics, museums and research councils, the people with real expertise in this area, to look at the potential here and make this a really valuable process, valuable for people on an individual level in terms of telling their stories but also valuable for those who can get to listen to those stories and use them for years to come.

Q349 **Robert Goodwill:** What is the timescale for delivering this?

Chris Flatt: We will want to set this up really early on and get this started very quickly, but we want to do that in conjunction with partners. It is something that we will get started with quickly, but we will be looking to others to help us out with it. It will hopefully be something that grows and continues to grow over the years.

Brandon Lewis: One of the things that we are looking at in terms of when we are able to come forward with the final proposals around what we are looking to legislate on is to avoid a situation where the Government set out what we want to do and even legislates, and then two years later we are all still talking about when it is going to start. One of the things that we are focused on is having a package that can be up and running. Assuming all of the legislation is able to successfully pass through the Houses of Parliament, we want to end up with legislation where the outwork of that, whether it is oral history or the information recovery body, is up and running relatively quickly thereafter.

I will be talking to that once we finalise exactly what those details are. We want to be able to show that this is a package that will then actually be delivered rather than something that we are still talking about seven years on. Again, time moves on. We need to get on and get these things happening.

Q350 **Robert Goodwill:** Is there any risk at all that this might open wounds rather than heal them?

Brandon Lewis: An oral history is for people to come forward voluntarily and share their stories if they want to. For some people it could be quite cathartic. Some people will do it because they feel they have a story that is important for people. If you do it in that kind of format and you make it available in the right way, of course people also have a choice about whether they want to engage with it, listen to it and be part of it.



The challenge always with issues around legacy and the past, in any part of this, as we touched on earlier on, even with information recovery, is that there are people who do not want to revisit, who do not want to go back to what was a very difficult time for them and who do not want to be re-traumatised by that. We have to recognise that fact both in terms of information recovery—because there are some families, as I said earlier on, who will not necessarily want to go through that process at all in any format—and in oral history.

We need to do the oral history correctly. As I say, there are experts in the field, and we need to use their independence and their expertise to deliver something like this. It is voluntary for those who want to come forward and share their story. Of course, for anything like that, it is up to us as individuals whether we want to then engage with it. It does give that in-built protection for people who do not want to have that engagement.

Madeleine Alessandri: Can I just add to that? I have been continually struck by the conversations I have had with people who said that they did not lose anybody in the Troubles and they do not regard themselves as a victim but who have talked about the experience that they had growing up in Belfast. I was talking just the other day to one of my colleagues who is similar age to me. I grew up in Birmingham; she grew up in Belfast. She was recounting the story of how every morning before she left the house her mother said, “Have you got your 10p coin in your pocket?” She needed her 10p coin in her pocket because she had to change buses in the centre of Belfast, and her mother was terrified in case there was a bomb scare or they were taken off and she could not get home. She does not regard herself as a victim, but she wants to be able to tell those stories so that the next generation can understand the experience that they grew up in. That is the power of an oral history.

Robert Goodwill: That is hugely important.

Q351 **Ian Paisley:** Secretary of State, I want to return to the point Robert has made very well about keeping this alive and perpetuating the aura of the past. Many years ago I had the opportunity to visit Rwanda and to see how they have addressed their past. I must say it is appalling what has been done there, because it has kept it alive. Visions of what happened and why they were traumatised are kept right in front of people. It has probably perpetuated the divisions in that country; it has not led to any healing. It is really important to get a balance right here. That is the case in any sort of oral history or any sort of tallying of the past.

We had a book about the legacy, *Lost Lives*, in Northern Ireland that tried to just document it a very—I do not want to use the word wrongly—cold manner: “This is what happened on such-and-such a date”. Getting that balance right is incredibly difficult. I do not for one minute underestimate the challenge that you are up against in getting that right.



Brandon Lewis: No, I absolutely agree with you. It is a challenge, and it highlights the challenge around the complexity of dealing with legacy in Northern Ireland. Whether it is about the information recovery, the statute of limitations or the oral history, there are lots of different views that are strongly held, quite understandably and quite rightly, by people. This is about how we come up with a package that helps Northern Ireland move forward.

There is also another important thing. I have used this phrase before, but it is important to think about where we are going and be conscious of our past. It is not about forgetting that; it is about understanding that so that people can make decisions in cognisance of what has gone before.

Yes, you are absolutely right. Part of the challenge for us and the work we are doing is to look at what has been done elsewhere around the world. I have been talking to people in the US around some of their memorialisation experiences, particularly with 9/11, etc. You have the experience of Vietnam, who have a very interesting package over there that is quite well respected. There is a whole range of things that we are looking at and talking to people about, including experts in the field, as we say, to try to get that balance right. I am not going to underestimate it. It is a very difficult balance.

Chair: It cannot become a recruiting sergeant.

Brandon Lewis: No, absolutely.

Q352 **Claire Hanna:** I just want to pick up on this issue of victim makers and what might be forthcoming. As I say, for most victims and survivors, their experience has been that information does not come unless it is dragged out. Again, we have had examples like the commission for the bodies of the disappeared. Even without the threat of prosecution, that information did not come forward. Essentially, paramilitaries and state actors are covering up for each other and just hoping that the political conversation will allow the years to roll by and spare their blushes. That is the impediment to reconciliation that we are dealing with, not the justice process.

Your paper says that perpetrators and witnesses are more likely to come forward under this model than any other. I do not see any evidence for that. We know that, on the periphery of this process, there were representatives of victim-making non-state organisations. What engagement have you had with militias about what might be forthcoming? My understanding from party colleagues who have participated in the talks process to date over recent months is that there has not been any great poking or prodding on expectations. Again, what is the basis for the assertion that this will bring forward more perpetrators than previous models?

Brandon Lewis: I have two points. Your reference was to meetings early on, some of which were last year. Those were not Northern Ireland Office



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meetings. They are organised by a third party, completely independent of us.

Q353 **Claire Hanna:** What engagements have you had with organisations who made victims?

Brandon Lewis: Victim creators are not bodies that we would be actively engaging with on this. As I say, that was not an NIO-organised meeting, although we did have officials there because we were invited by the organisers. At the point at which we were invited, we did not even know who was going to be there, because it was not our meeting.

You used the example of the recovery body, which highlights this point. They have struggled, not in all cases but in a number of them, to get people to come forward with information, particularly, from my conversations with them, from the ex-IRA side. We have seen challenges here. The Robert Nairac case is a good example where we have struggled to get engagement.

There are a couple things that I would say on that. First, I am keen to see the proposals from the Irish Government about information recovery and their support to be able to do this work in terms of information recovery and how we do that.

There is also an important point that plays into this, which I alluded to earlier on but probably did not make clearly enough. One of the challenges that a body like that has had is for people currently and recently to come forward with information in the belief that they will not then be involved with the prosecution. Their past experience of the people involved in HET and the Boston tapes, for example, is that the opposite is true. Those people came forward in that belief and then were prosecuted. People might think they would be able to come forward without being prosecuted, but there is evidence that this is not the case. That may well be putting people off. I do not know for definite, but there is an argument about that.

That is why we have to look at this. The current approach is not working, and that is why we need to look at something different.

Q354 **Claire Hanna:** In terms of state organisations, which again have not been forthcoming with information, people are rightly suspicious that the IRB you propose will be toothless. Would you commit to giving it the powers that were envisaged for the HIU under the Stormont House agreement? I mean the power to search, to arrest and to have access to intelligence. Again, the pattern over the decades has been that intelligence information is suppressed. Everything has this tag of national security. Would you commit to giving the body that you propose those powers, as were envisaged under the Stormont House agreement?

Brandon Lewis: On the basis that, as I said earlier on, we have not made final decisions on some of the issues around this, I am not going to give a commitment on anything.



What I will say is that we are determined to ensure that the information recovery body is article 2-compliant. I am happy to have a follow-up conversation with yourself around this—no doubt we will have one on the Floor of the House, and, if not, we will have one outside of that and here in this Committee—but we will also be ensuring that there is access to information, both more widely from the UK Government and from partners at a level that has just not been the case before. Again, I am hoping the Irish Government will match up to that as well.

Q355 Claire Hanna: Finally, what reason would there be not to give the body those powers to compel evidence and have access to intelligence, if this is really about truth recovery and not about stopping the embarrassment of people who were engaged in a very dirty war? What possible reason would there be not to give those powers?

Brandon Lewis: You will know that in the past I have regularly made the point that I avoid hypotheticals. I am not saying we will not; I am not saying we definitely will. I am also saying that, from the UK Government side of it, from the side of UK Government partners and organisations that are part of UK Government, if the UK Government is committed through the legislation to information recovery at a level that has not been done before, it is a matter of fact that those bodies will have to be part of this.

This all falls into the details that we are looking at at the moment to make sure that, when we come forward with the details around the information recovery body, people will be able to see it and, when it is up and running, people will be able to see that it is delivering in a way that can generally get to the truth at a level people have just not seen before.

Again, I would say it is important that, if there is legislation that comes forward from the Irish Government, it will match up and do a similar thing in Ireland as well. I am hopeful about that, given the conversations we have had with the Taoiseach.

Q356 Chair: Could I just echo what Ms Hanna has said, Secretary of State? When we were doing our last inquiry, we heard from Jon Boutcher. With the full force of a retired chief constable and all the rest of it, he found it very difficult at times to get information.

This is a big step that you are asking a lot of people to make, and that seems to me the key stepping stone to get people from that bank of the river to this bank of the river. If people think there is a clock to run down or some sort of smokescreen to hide behind, where the authorities obfuscate, delay and do not produce the evidence that is requested, from day one it will have been well and truly hobbled. That just needs to be borne in mind.

Brandon Lewis: On that specific point, it is just worth noting that, as I have said many times, although Operation Kenova has not had any prosecutions, it has been very successful in a range of things, not least of all getting to information.



The last time I spoke to Jon Boutcher about these issues, which was not that long ago, he said they had never actually had to use their powers of compulsion, but I have no doubt that the fact they have them has an impact. We are looking at all of those issues now.

Q357 Stephen Farry: I just wanted to pick up and clarify a number of answers that you gave earlier on. First of all, given that the Chair has raised it, I have a question on Operation Kenova. Previously, Secretary of State, your thesis around the need for change is that the system is not capable of handling prosecutions, because this year we have seen a whole host of prosecutions collapsing, and therefore it shows how difficult this is. Specifically with reference to Operation Kenova, are you open-minded that there may well be a prospect in the near future of recommendations coming through that process for prosecutions to be taken forward? If your legislation goes through, it would cut that off from reaching its full conclusion.

Brandon Lewis: There are two things. First of all, to the first part of that, I would just say that the package that was put in the Command Paper is not just because cases are collapsing; it is about the wider issue of how you get to information and the level that a criminal justice case has to get to in order to be able to come to a conclusion compared to what we see in the coronial court. There is a wider issue than just because cases are collapsing. Of course, some of these cases collapsed after we started working on this. The two are not necessarily linked.

In terms of Operation Kenova, they have not had any prosecutions at all at the moment, let alone any successful prosecutions. That is a matter for the PPS, but I absolutely recognise that there is technically a possibility that Operation Kenova's investigations could lead to the prosecution service deciding that there is a prosecution in the future. That has not been the case so far and is not the case at the moment.

Q358 Stephen Farry: If you have had conversations with Jon Boutcher and you are saying that it is only hypothetically possible, are you maybe not doing full justice to the work Operation Kenova is currently doing? That is not a fair reflection of where Operation Kenova currently stands in terms of the work they are doing.

Brandon Lewis: In what sense?

Q359 Stephen Farry: They are probably closer to the line in terms of potentially making recommendations for prosecutions than you are giving them credit for.

Brandon Lewis: As I say, I can only go on the facts as we have them. My point about Operation Kenova is that it has been going for four or five years now. It has not had a prosecution. I cannot predict what decisions either Operation Kenova itself or the prosecution service will make in the future. Even then, that does not mean there will be a successful prosecution. As we have seen, the prosecution service decided to make prosecutions that have collapsed afterwards this year.



This also does not change the underlying point around Operation Kenova. Where it has been very successful is in the work it has done with both victims directly and their families around being able to get to information and the truth. In cases that are not being prosecuted, there are still families who have felt that the outcome of that has been a positive outcome for them.

Stephen Farry: This leads neatly on to the point around—

Chair: Stephen—

Stephen Farry: Chair, I did not actually get a substantive question. I came in at the start on a follow-up to your starting question.

Chair: It might have been a follow-up, but it was asked very substantively.

Q360 **Stephen Farry:** It was, but this is actually perhaps the most substantive point, if I may. It goes to the heart of article 2 of the European Convention on Human Rights and the integrity of investigations. My understanding and the understanding that I have had from numerous legal experts in Northern Ireland, including prosecutors, is that for an investigation of any nature to be compliant with article 2, at the very least it has to have the theoretical possibility of a prosecution being taken and, if it does not have the prospect of a prosecution being taken, it cannot be an article 2-compliant investigation. That is the central point under which many commentators think that the Government's current Command Paper proposals will become unstuck in terms of the European Convention on Human Rights.

Brandon Lewis: I might let Mr Flatt come in on this in a second. There was an independent piece of work very recently, as I said earlier on, on Operation Kenova. Putting aside the conversation we have just had around what might or might not happen in the future, even at this point where there have been no prosecutions, Operation Kenova, even without prosecutions, has been found to be article 2-compliant.

Stephen Farry: That is because prosecutions are still technically possible—

Brandon Lewis: Let me let Mr Flatt come in.

Chris Flatt: Yes, we are aware of those views, and we have our own views on what we think is feasible, achievable and lawful. What you have to bear in mind is that there are various parts to the procedural obligations under article 2, as I set out before. Promptness is one of those. What we are seeing at the moment is that cases are taking a very long time and the theoretical possibility of criminal prosecutions, which is only one form of justice, is holding up all of the other parts.

I will give you one other example, putting aside Operation Kenova for a moment. I was involved many years ago in setting up the Robert Hamill



inquiry, which completed its work in 2010 but 11 years later is still not public. That is partly because of the ongoing prosecution process there. At times in Northern Ireland there is a clear tension between pursuing prosecutions and actually providing information to the public and to families. That tension is there, and it is one of the things that we think is really important.

Q361 **Stephen Farry:** Many people in Northern Ireland would say that the reason why these cases are taking so long—and you are citing that—is because the UK Government have not co-operated with the cases.

Chris Flatt: The Robert Hamill inquiry was something that we put a lot of effort into setting up and getting work run and completed. That is nothing to do with us in terms of the prosecution process. It is a separate process.

Q362 **Stephen Farry:** Take Ballymurphy, for example. That was delayed.

Brandon Lewis: Let me pick that up from a political point of view. Ballymurphy having taken 50 years, under successive Governments, is not good enough. I acknowledged that on the Floor of the House. We need to be able to find a process that means that people do not have the kinds of challenges and problems they have had.

I recognise the challenge that you and Ms Hanna have made. I understand people's scepticism because of their experiences and what they perceive around what they believe the UK Government have or have not allowed to happen in the past. That is why I absolutely accept that the proof for us will have to come in delivering this in a way that can show we are going to make information available. We do not just want this body to have access to that information; we want that information to lead to accountability and information for the families in a way that just has not happened before. That is something that we need to move on, and that is our responsibility as part of the package.

Q363 **Chair:** Secretary of State, we have done some of the fleshing out of the why, and we have done quite a lot of the fleshing out of the what. Let us just turn briefly to the when. You have good form on this, Secretary of State. You will remember that in an earlier session I asked you to commit to setting out proposals to the House before we rose for the summer recess, and you were as good as your word. You pledged that you would, and you did. The Committee and the House were grateful to you for that.

I am sure you have lots of things on your bedside table, but on your bedside table you must have a little chart that says how many sleeps until the end of the consultation. When does the consultation end? How long have you given yourself to ruminate upon the responses to the consultation? When should we expect to see a second reading of a Bill? We are all conscious, are we not, of how justice delayed is justice denied and just how long this has gone on? Is it a naive expectation to hope that we would see an Act of Parliament by summer recess 2022, on the presumption that you are not going to deal with it as emergency



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legislation, which from an earlier conversation was not how it was going to be dealt with?

Brandon Lewis: From my point of view, I have no intention of dealing with it through emergency legislation. There is no reason for that. I take your point around justice delayed being justice denied, but the reality is that, whatever we propose, because of the complexities we have all discussed—

Q364 **Chair:** Hang on. When does your consultation end?

Brandon Lewis: I will answer that, but I am just going to take the points in reverse order. This is something that Parliament needs to have a full opportunity to discuss, debate and go through properly. In terms of when we might see an Act of Parliament, as in with Royal Assent, that is not entirely in my control. That is partly a matter for the House and the House authorities around how that works.

Similarly, giving you a second reading date, as tempting as that might be for me today, is not entirely in my control. I will repeat what I said on the Floor of the House today. Oral questions was earlier today. My focus is still on delivering that within the autumn. A number of colleagues in this room will know that the parliamentary autumn period does have a bit of flexibility to it.

Chair: Autumn usually goes on until February, does it not?

Brandon Lewis: I still remember sitting patiently as local government finance Minister waiting for an autumn statement that came on 4 December when I had to sort out—

Chair: Yes, we have all had one of those.

Brandon Lewis: I do not have a set point at which I would say, "As of five o'clock today, the consultation ends". I want people to be able to continue to feed in. Even this week I have had people coming in and feeding in to us. What I would say is that, in the weeks ahead, we will be talking to party leaders in Northern Ireland about this before I make a final decision, but there is a point pretty soon where we need to take a view that we have the feedback that we are going to get from a very wide range of people and we need to be making some decisions. That is going to be coming fairly soon, but I will talk to the party leaders in Northern Ireland first about that.

Q365 **Chair:** If it is just open-ended, people will just respond. At some point the dog has to see the rabbit, does it not? We have to see the Bill.

Brandon Lewis: Yes, and we have been talking to the parties—that is "parties" in terms of interested parties, not political parties, although it includes political parties—across Northern Ireland through this process. Most of them will feel that they have put in their information. What I would say today to anybody who is reading, listening or viewing this is



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that, if they have a view that they have not yet had a chance to put in, there is still time for them to feed that view in. I would be keen to hear from them imminently.

Q366 **Chair:** Every Government consultation has a cut-off date by which responses—

Brandon Lewis: Let us be clear: this was not a formal consultation in that sense. This was a Command Paper and, off the back of the Command Paper, by agreement with the Irish Government, we had a series of engagements with interested parties across Northern Ireland by agreement with the Irish Government. We have been doing that. I spoke to the Foreign Affairs Minister just last Thursday briefly, not particularly on this, because we were together for some events in Northern Ireland. We had a more formal conversation just a few weeks ago about this and were working together on that. It was not a consultation in the sense of people sending things in by a set date; it was a consultation in the sense of us and the Irish Government having a series of meetings that can inform the final decision for us and for the Irish Government, which have also committed to legislate. I am very keen to see their proposals as well.

Q367 **Chair:** Would it be right to presume—I am going to be brief on this—that nobody is going to move forward on bringing stuff to court or cases or anything of that nature because your proposals are now pending? Everybody is in a state of limbo, if you will.

Brandon Lewis: No, that is not the case. Everything that is happening in the moment happens in the current legal framework and is continuing as such.

Q368 **Chair:** Would that include new cases?

Brandon Lewis: Any legal case, whether it is a civil or a criminal prosecution, works on the basis of the law as it is today. All of that will be continuing as we sit here.

Q369 **Chair:** They would fall when your proposals became law.

Brandon Lewis: That depends on what the final proposals are—not necessarily.

Q370 **Chair:** We have a bit of time between now and July. Is it a naive prospect to presume that we could see an Act of Parliament on the statute book by summer recess 2022—yes or no? If it is a naive prospect, tell me I am naive.

Brandon Lewis: As I say, dependent on the speed of Parliament and how Parliament works, which is not in my control, it is feasible that that could be the case.

Chair: So it is not naive.

Brandon Lewis: It is not naive. No, not at all. I cannot commit to that, because it is not entirely within my gift.



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Q371 **Chair:** No, it is not within your gift, but that would be your desire.

Brandon Lewis: My desire, once we propose legislation, would be to have this move through Parliament. I want to have a genuine, full and proper discussion and debate—I know there will be, because there are strong views on this—so that when we come to the final legislation it is a robust piece of legal legislation that has had a really good airing. If we get that done and get it in place, the sooner that is in place, the sooner we can move forward with these bodies and start moving things forward for the people of Northern Ireland. That in itself would be a good thing.

Chair: Secretary of State, on behalf of the Committee, can I thank you and your colleagues for your attendance today and for taking all of our questions and for answering them as fully as we appreciate that you possibly can at this moment? You know full well that there is an appetite, whether one is supportive of your proposals or not, to see them. You will have heard that expressed in all quarters of the House over the last couple of days. If that gives power to your elbow with the business managers, then all to the good. Thank you very much indeed.

Brandon Lewis: I appreciate that. Thank you.