

Northern Ireland Affairs Committee

Oral evidence: Addressing the Legacy of Northern Ireland's past: The UK Government's New Proposals , HC 329

Wednesday 24 June 2020

Ordered by the House of Commons to be published on 24 June 2020.

[Watch the meeting](#)

Members present: Simon Hoare (Chair); Caroline Ansell; Scott Benton; Mr Gregory Campbell; Stephen Farry; Mary Kelly Foy; Mr Robert Goodwill; Claire Hanna; Ian Paisley; Bob Stewart.

Questions 1 - 54

Witnesses

I: Judith Thompson, Commissioner for Victims and Survivors Northern Ireland; Emmett McConomy and Mary Moreland, Members of the Victims and Survivors Forum.

Examination of witnesses

Witnesses: Judith Thompson, Emmett McConomy and Mary Moreland.

Q1 **Chair:** Good morning, colleagues, and a very good morning to our witnesses, who are joining us virtually this morning for our oral session on victims and survivors in Northern Ireland. I am very pleased that you could join us. Could I please ask our witnesses to introduce themselves? I would then invite you to take about five to six minutes for some introductory remarks, and then we will turn to questions. Thank you.

Judith Thompson: Chair and members, I am grateful for this opportunity to come before the Committee today and assist with your inquiry. I am accompanied by Mary Moreland and Emmett McConomy, both members of the Victims and Survivors Forum. The Victims and Survivors Forum is founded in legislation. Members share their lived experience and provide advice to the commission on all issues affecting them. I would like to ask Emmett and Mary to make some opening comments. I will then make some key points and we would welcome questions thereafter.

Emmett McConomy: Good morning. This is some background information about me and my brother. My name is Emmett McConomy. I am the youngest brother of Stephen McConomy who, on 16 April 1982, when out playing, was shot in the back of the head with a plastic bullet a short distance from his home. Stephen was transferred to hospital a short time after the incident in Derry, and then transferred to the Royal Victoria Hospital in Belfast, where he remained for three days on a life-support machine. During that time, it became clear to the medical staff that Stephen's life was not viable, and mum had to make the horrendous decision to switch Stephen's life-support machine off, which she did, and Stephen then died on 19 April 1982.

That is my background and my family's background. I have joined the commission to try to make a positive change and difference to the victims and the needs of survivors here at home and across the UK. There are several points that I would like to make. First, I would like to put on record that this is not a witch-hunt. The needs of victims across the UK, the south of Ireland and Europe who have been affected by the conflict here for the last 30 or 40 years are no different, regardless of the perpetrator and regardless of how and when harm was caused. My family has campaigned for nearly 40 years to find out what happened to our brother. As I said at the start, Stephen was an 11-year-old child when he was shot. He was still in primary school. He had only made his confirmation two weeks before he was shot. The soldier who fired the plastic bullet did so from inside an Army Saracen, which is a huge vehicle, several tonnes in weight. There was no riot at the time and the soldiers were not under any threat, yet Stephen lost his life.

The genuine question that my family has always asked is: why? What risk was Stephen posing? Why was he shot? There was no investigation into



HOUSE OF COMMONS

what happened to my brother, and not only that, but the regiment responsible for shooting my mother's eldest son was the same regiment that, two weeks later, raided my mother's home on the pretence of looking for stolen goods. There was nothing stolen in our house when we were growing up, except our childhoods and my mother's eldest son.

I have campaigned for the last 10 to 15 years to find answers and have been met with block after block and delays. Our family has experienced those delays, as have many other families. I say that, too, for the mothers and brothers of all victims, whether they be policemen, from the Army or civilians. People have a right to know what happened to their loved ones.

When we talk about our story, there are nearly 4,000 other stories that are fairly similar to mine across this country. Those families and those brothers have a right to know what happened to their siblings, and what happened to their sons and daughters. It is time that we put the needs of victims first and central to all the decisions, and involve them in the consultation so that they can understand and work with the Government to find a resolution to this ongoing legacy. We do not want our legacy to be that we have kicked this further down the road and that countless other victims' families have passed away without knowing the answers. It is time now that we all stepped up and addressed the needs of the past.

It is difficult, and we understand that. It can be messy, and we get that as well. Not dealing with it is cruel. It adds further hurt to an already broken community, and it is time that we started the healing process with direct involvement from the commission, from our staff, from our members and from the community, who have been consulted with for the last number of years. We have had the Good Friday agreement. It is not perfect and the legacy mechanisms within that are by no means perfect, but it was something that we could work towards. We are now seeing that unpicked and diluted, and versions similar to it or in the principle of the Good Friday agreement are not good enough. We need to implement and work with victims and groups so that we can find a way out of this mess. That would be my plea to you today: to step up and work with the commission, and to find a resolution to our problems. Thank you.

Chair: Mr McConomy, thank you for that contribution and for the very quiet and dignified way in which you gave it. We are very grateful.

Mary Moreland: I am Mary and, like Emmett, I am also a member of the Victims and Survivors Forum, but my background is very different to Emmett's, as is that of every member of the forum. We come from a very different background, but the aim is the same. I was widowed in 1988, just nine days before Christmas, when the IRA shot and killed my husband, just because he was a part-time soldier in the Ulster Defence Regiment. He left behind me and two children. At that time, they were aged 10 and 12. I am also a veteran, having served for a short time as a Greenfinch myself in the Ulster Defence Regiment.



HOUSE OF COMMONS

Thank you for the opportunity. I believe that my attendance here today matters, as part of anything that I can do, along with the rest of the forum, so that we, as a society, never return to the violence that we had in the past, and so that future generations have the opportunities denied to many during the Troubles.

In 2017, I took over the role of chair of the War Widows' Association, the United Kingdom's leading representative organisation for widows and widowers of UK Armed Forces personnel, where their death was caused or hastened by service. While here today strictly in my role as a member of the Victims and Survivors Forum, my dual role does enable me to understand veterans, war widows and widowers, and to speak to and within the forum from that unique perspective.

The Troubles have impacted all of us, either directly or indirectly, and not just in Northern Ireland but throughout the United Kingdom as a whole, and even beyond the United Kingdom. Therefore, I believe that it will take society as a whole to fix it, but that starts with Government listening and putting victims and survivors at the very centre of everything they do.

As Emmett said, we cannot kick the can down the road any longer. We need action now. The status quo is not working, so we need to recognise that there were injustices in the past and we need to start to build a society that belongs to all who live in it—everyone. Thank you.

Chair: Mary, thank you. Thank you for sharing that harrowing event so well.

Judith Thompson: I would like to make a few opening remarks. I would like to start, as you have heard from Emmett and Mary, by reminding ourselves that at the heart of the issue of legacy are personal experiences. In opening this presentation, I would like to read you one further account of the past in terms of the breadth of its impact now:

"The past lingers in my present, and there is no getting away from it. It is not on my mind every day but it comes and goes. Sometimes, I can carry on as if it did not happen at all, but it does not take much to bring it back. Just the slightest reference can haul me off into nightmarish days a half century ago, when hostility and fear and a thirst for retribution were part of the fabric of our daily lives. Bang. An explosion, a gunshot, another life ended, and layers and layers of anguish in families and communities. A familiar face fleeting across the television screen. A name in a newspaper. A sound. A smell. They would all become reminders of a time when danger crept closer and closer to me, a time I want so much to be able to forget ever happened.

My cousin was shot down at point-blank range. His lost future stained the pavement a deep red as life began draining out of him. The ambulance raced him to hospital but it was too late to save him. A young woman I knew went out with friends one night and found herself in the path of a



HOUSE OF COMMONS

bomb that tore into her body. We could only look on helplessly as her family was destroyed. Her marriage was unable to withstand the daily challenge of a body wrecked by the explosion. The comfort of alcohol attacked their family as much as the bomb had, ripping it apart.

Over and over, we witnessed how the anguish of loss shattered the loves ones of those who had been killed and injured. For each victim, there were family members knocked to the ground by their suffering, and some would never completely recover.

I had not really classed myself as a victim because, physically, I had never come to any great harm but I am now able to recognise that I have had to learn to live with mental and emotional pain. My story is not a whole different than that of so many others out there.”

The numbers tell us that 26% of Northern Ireland’s population have been affected, many of those with family members who continue to be affected. Some 3,720 people died; 40,000 were injured; and 217,000 still experience significant mental health issues. Legacy belongs across our community and across these islands. It affects a huge proportion of our population today. Dealing with this issue is a civil society issue about building a better future in Northern Ireland and for all those harmed across these islands and beyond.

I and the forum have agreed a series of principles that reflect the views and aspirations of victims and survivors for any legacy proposals: that they are co-designed, in collaboration with victims and survivors; that they are victim-centred, victim-led and inclusive; that they are impartial; and that they are fit for purpose. It is our view that these principles provide an approach for ensuring that any new legacy mechanisms can command support and confidence.

The commission welcomed the Government’s commitment to implement legacy elements of the Stormont House Agreement within 100 days as part of the agreement to re-establish the Executive. It was our view that this commitment represented an opportunity to take forward a range of mechanisms to deliver truth, justice and acknowledgement for all victims and survivors of the Troubles. It has been almost universally accepted that the present system is not able to address the legacy of our past and, therefore, it is necessary to introduce new mechanisms that will deliver better outcomes for victims and survivors.

It is also very clear that, in the context of high levels of disillusionment and low levels of trust which exist across different political constituencies in relation to this issue, any approach must be balanced, transparent and must operate within the rule of law. Service provision should be nuanced to the needs of those impacted by conflict-related incidents, and it is essential that any new mechanisms ensure that support is built in, mindful of the unique needs of those impacted by the Troubles.



HOUSE OF COMMONS

The Secretary of State's written ministerial statement of 18 March appears to signal a change of direction from the mechanisms on which the Government previously consulted. Whilst the detail of the proposals has not been articulated, the approach appears to abandon the structures contained in the Stormont House Agreement, in favour of a process wherein the bulk of all outstanding legacy investigations—that is, thousands of deaths—would be accelerated and, unless there is a realistic prospect of prosecution as a result of new compelling evidence, closed permanently. The purpose of investigations should not be defined in terms of the number of prosecutions that are envisaged. The critical issue for families is access to information about the circumstances leading to the death of someone they loved, and acknowledgement of wrongness and harm.

During our engagement with those affected by the conflict across these islands, it is clear that the experiences of those affected are very much the same. Their needs must be addressed in an inclusive way, and this means that options open to those who live in Northern Ireland must be open to those who live elsewhere. The commission remains extremely concerned that efforts to seriously look at the needs of victims and survivors of the Troubles outside Northern Ireland remain largely unaddressed.

In my role as Victims Commissioner, I am a member of the Operation Kenova Victims Focus Group, led by former Chief Constable Jon Boutcher. I believe that we are being shown by this team and their investigations that new information and evidence can be uncovered and that families who want answers can be better served. The Kenova investigation shows us that, when families and stakeholders trust a legacy investigation as being independent and fair, they will provide evidence and information that can lead to cases being solved. It shows us that, where Government agencies are reassured about the information-handling and security arrangements of a legacy investigative body, they can and will share information that will potentially enable cases to be solved.

Legacy reviews or investigations that do not reach out to and connect with families and stakeholders, or that do not relentlessly pursue the records held by agencies relevant to those events, will fail to identify investigative opportunities. It is hard to see how the direction of travel signalled in the written ministerial statement will achieve the investigative rigour, the commitment to families or the transparency and independence necessary to achieve these outcomes for families and communities that suffered loss and harm. It is also hard to see how this direction of travel will avoid legal challenge, with the eventual outcome that people who had been told that they are beyond investigation will once more be told that this is not the case, and that families and communities seeking information and acknowledgement will once more be told to await the outcome of judicial review, or an inquest or an inquiry.



HOUSE OF COMMONS

Keeping victims and survivors informed, and those who represent them, is crucial for any process to work. I would highlight that there has been no further public consultation on the detail of the changes, and no schedule for legislative processes. My concern is that victims and survivors across all constituencies and across these islands may now be faced with legislation driven through Westminster that does little for them. Processes can work only if there is consultation, engagement and respect.

In conclusion, Chair and Committee members, it remains the commission's view that legacy mechanisms as envisaged in the Stormont House Agreement offer the best opportunity to address the legacy of the past. I recognise that there are significant changes that would need to take place, and I advised the Government on what was required. I made 48 recommendations of change to those proposals.

What is also important is that we are watching a victim-centred, modern-day-standards police investigation carried out through Operation Kenova under Jon Boutcher, and what we are hearing is that legacy issues are capable of being investigated and will not go away. I would also echo his view that the toxic impact of undermining and invalidating those who seek the truth should not be underestimated. Most importantly of all, the aim of addressing the legacy of our past must be to build a better future. At a civic and political level, there continues to be a war of words about harm inflicted on different individuals and communities during the conflict, and that, in itself, is hurtful to all those who suffered.

Q2 Chair: Thank you, Judith, for that. You mentioned that you made 48 recommendations to the NIO. Have you had any response to those recommendations?

Judith Thompson: Those 48 recommendations were contained in our advice following legacy consultation. No, I have not. I have had the same as everybody else has had who made submissions, and there were many. We received a summary of responses and what they said—and there were more than 16,000 responses. Then we awaited further action. We heard, as I said, that there was a commitment to move forward within 100 days, and then we heard the written ministerial statement. Since then, I have had conversations with the Northern Ireland Office and with very senior officials there, but none of those conversations have in any way articulated any of the detail of what is proposed in these now changed legacy proposals.

Q3 Chair: Have you made a formal written response to the WMS?

Judith Thompson: Yes, we have done that.

Q4 Chair: Have you had any response to it?

Judith Thompson: I have had no response to that.

Q5 Chair: Have you had an acknowledgement of it?



HOUSE OF COMMONS

Judith Thompson: I believe we had an acknowledgement of it, yes.

Q6 **Chair:** But you have had no indication as to how it is proposed to deal with your submissions.

Judith Thompson: I have had verbal conversations, and the forum has had a formal meeting with the Northern Ireland Office. Whilst there is clearly a message that everyone is being listened to, we do not have any detail whatsoever on how the proposed changes will work, so it is really hard to feel consulted or confident in that lack of information.

Q7 **Chair:** As the Commissioner, have you in any way engaged with the Government in the Republic on this issue?

Judith Thompson: Yes, I have. When I made recommendations on legacy to the Secretary of State, I also made a separate set of recommendations to the Irish Government, because they are engaged not only as parties in the Stormont House Agreement and as signatories regarding information retrieval, but also as a Government who hold information and evidence that are of great significance and importance to many people awaiting investigations, both in the Republic of Ireland and in the north of Ireland. I put it to the Irish Government not only that their partnership was involved in solving this, but that their action as party to this exercise and as a party that holds legal evidence is also critical. They face many of the same challenges as the UK Government do.

Q8 **Chair:** Would it be possible for you to share with the Committee the submissions you made to both the Secretary of State and the Government of the Republic?

Judith Thompson: Absolutely. In our written submission to this inquiry, we have captured our position on that and outlined those recommendations. Do you want me to try to summarise key issues?

Q9 **Chair:** No. What I would like is just to have copies of the two letters that you submitted to both parties. That would be very helpful. Just on that, was your submission to the Secretary of State copied to the Government of the Republic, and vice versa, or were they dealt with in a siloed way?

Judith Thompson: They were both cited on the other, but I dealt with them separately because there are some differences.

Q10 **Chair:** I understand that. I have a few more questions on the back of what you very kindly told us in your opening remarks. With regard to investigations, could I just have a brief comment from you as to the merit or otherwise of conducting any investigations based on the evidence standard that prevailed at the time of the event taking place or using contemporary?

Judith Thompson: There are two different and very important points here. The first—and you are absolutely right to make it—is that the circumstances in which investigations happened are utterly and completely different from those which pertain now. Investigations such as



HOUSE OF COMMONS

the ones we are talking about happened in a circumstance where police officers could not safely go to interview witnesses, and witnesses could not safely talk to the police, in many cases. The experience of current-day investigators in revisiting those is that they can talk to families who never had the opportunity to speak to a police officer following the death of someone they loved. That is not a criticism of the police. Those family members would have been at risk, in many cases, had they tried to do so, and so would the police, if they tried to interview them. It is not fair to judge investigations carried out in these situations by modern-day standards.

However, there is a different point, and that is that, when you bring a modern-day approach and when you talk to those families and you carry out your investigation with them and with their experience at the centre of your intentions, you can achieve a very different result. That is not a criticism of what went before but it is—

- Q11 **Chair:** This is not directed at anybody, but can I call for short-ish answers? We have a lot of ground that we wish to cover. Have you an observation just with regard to the sufficiency of staffing numbers capable of meeting the potential demand for investigations, i.e. in terms of investigative detectives?

Judith Thompson: That is a challenge. Kenova has had the advantage of being properly staffed, and the police Legacy Investigation Branch and other bodies have had the disadvantage of struggling to be properly staffed, largely for funding reasons. Extensive work has been carried out between the UK Government, the Northern Ireland Department of Justice and the Northern Ireland Executive to cost out and look at how the historical investigations process could be staffed. I believe it is doable. What has been shown through Kenova and other, more recent investigations shows that results are achievable. What it will cost to do it is far less, financially and community-wise, than it will cost not to do.

- Q12 **Chair:** Could we turn to the current issue with regard to pensions?

Judith Thompson: Yes, I am pleased you raised that, Chair.

- Q13 **Chair:** What is your message today to those who are holding up the instigation and the commencement of the delivery of pensions to those who have waited such a very long time to receive them? Picking up a word that I noticed Emmett used, this Committee wrote to Stormont the other week and used the word that Emmett used: “cruelty”—that there is a real cruelty in not progressing this issue in a timely fashion. What is your message to those holding it up?

Judith Thompson: Thank you, Chair. As you know, on 2 June, I issued an urgent open letter to the Prime Minister and the Northern Ireland Executive calling on them to fulfil their legal obligation to implement the victims’ payments scheme. I highlighted, as you have, the human impact of delay, and I explained that the standoff being played out in public is undoing the acknowledgement of suffering and loss that the payment was



HOUSE OF COMMONS

meant to deliver. Whilst there are valid concerns about finance, the focus of this conversation has to be on the people. You will be aware that Jennifer McNern, a member of the WAVE Injured Group and former member of the Victims and Survivors Forum, lost her legs in 1972 and now has to make an application for leave to apply for judicial review of the failure to implement the scheme. People like Jennifer have waited long enough. It is simply not good enough and needs to be implemented immediately.

- Q14 **Chair:** You mentioned in your introductory remarks new mechanisms. Would you welcome a revisiting of the debate to the definition of “victim”?

Judith Thompson: That debate is one that is unlikely to ever reach a very helpful conclusion. That debate has been ongoing for as long as there has been a commission. In the process of having it, it is difficult not to deliver hurt and disrespect to somebody’s memory.

- Q15 **Chair:** Would you think it is a sound basis that anybody who has been injured, maimed or lost their lives by their own hand should not be eligible for a pension?

Judith Thompson: The definition of victims I operate under was designed to inform the work of the commission and the delivery of services to all of those who are harmed. Everybody who was harmed, by whoever’s hand, has family members, carers and a life to somehow manage. In the spirit of building a better community, looking after all those people is important.

- Q16 **Chair:** As soon as one uses the word “everybody” or “all”, by definition you are not satisfied with the current definition.

Judith Thompson: I feel that the current definition is the right way to run the work of the commission and the right way to deliver services. It has been accepted—and I would accept—that when looking at an acknowledgement payment for the most severely injured, it is not good enough to leave everybody with nothing because we have a debate, one way or the other, about the inclusion or exclusion of a small number of people. Therefore, to whoever has asked the question, my answer has always been that we need to get ahead and do this. We cannot hold it up because of a relatively small number of people who may or may not get it.

- Q17 **Chair:** You will appreciate both the importance and the sensitivity of this. When you use the words “everybody” and “all”, that comes with a bracket, which is, effectively: “everybody” and “all” injured, maimed or who lost lives not by their own hand.

Judith Thompson: No, in relation to my advice and in relation to services to victims and survivors and those who were harmed, it is important that all means all. That does not mean that every payment or every service is relevant to every person.



Q18 **Chair:** That is a bit of a sit-on-the-fence, is it not?

Judith Thompson: I do not think it is.

Chair: Because that gives fuel to two fires.

Judith Thompson: We have a complex situation where people did wrong things in circumstances that are different from today. They have families and communities. They are concentrated in certain families and communities. If we want to build a healthier place, mental support, personal support, care and services need to be everybody and all communities. I do not believe that that necessarily means that an acknowledgement payment has to be for everybody.

Q19 **Chair:** There is still that equivocation: “does not necessarily mean”. Would it not be incredibly helpful for you, as commissioner, to make it clear to all interested parties? By definition, one is not going to be able to exclude, and nor would one ever want to, from health services or mental health services all of those who qualify. That is, effectively, a fundamental human right. I appreciate the sensitivity of the issue, so I am not wading in here in a careless or cavalier way, but a little of that equivocation is clearly providing grist to the mill, principally to Sinn Féin, which wishes to revisit, in a root-and-branch way, the definition of qualifying victim for a pension.

Judith Thompson: I do not talk for or to any political constituency. I never, at any point, seek to equivocate about the wrongness of the harm, the lives lost and the lives maimed that happened here at any hand. I do not seek to serve any narrative on any part that minimises the wrongness of that harm. However, I would unequivocally say that, when we deliver services and help to those harmed in the Troubles, we must do it in an inclusive way and in a way that is not about morally equating anyone. It is about moving forward. Whether a payment has to be made to everybody is different. If you are acknowledging harm and the most severe harm done, that is a slightly different purpose.

Q20 **Chair:** Let me seek, in a short, final question, a yes/no answer. Should those who have been harmed or maimed, or whose families have had a loss as a result of somebody dying, but as a result of the actions of their own hand, be eligible for a pension?

Judith Thompson: Those people are victims of the Troubles.

Q21 **Chair:** We know that. I literally want a “yes” or “no” answer. Should they be eligible for a pension: yes or no?

Judith Thompson: I am happy to accept a political decision that says that it proceeds without those people getting it. It must proceed for the greatest number of people who want it.

Q22 **Mr Goodwill:** Nobody could fail to be moved by the words we heard from Emmett and Mary and the loss that they have had. Indeed, although many of the physical scars will have healed over the period of 38 years,



mental scars are just as raw as the day that Emmett lost his brother and Mary lost her husband. What we have heard so far seems to be saying that the basis of the Stormont House Agreement is a good basis. In terms of the new system and mechanisms, Emmett used the word “unpicked” and Judith talked about abandoning important elements. The fact remains, however, that, 38 years on, and six years on from the Stormont House Agreement, we have not seen progress. What are victims’ and survivors’ main criticisms of the present arrangements for dealing with Northern Ireland’s past? I am not sure who might want to go first. We have not heard from Emmett for a while.

Emmett McConomy: Thank you. Again, we come back to delays, delays and more delays. The public has been consulted. We agreed to the Stormont House Agreement in a political sense. Mechanisms were proposed and put in place, but we have had stalling and delays, and what appears now to be the unpicking of the Stormont House Agreement for political and national security reasons, which have led to a severe dilution of what was agreed. Again, there has been a lack of involvement from victims’ groups and from victims themselves, and from the commissioner.

We do not have any detail on these proposals going forward, so it is very difficult to comment on new legacy proposals that we are not aware of. That is the basis of where we are at now. It is difficult to come up with any logical conclusion to the legacy proposals, because we do not know what they are.

Q23 **Mr Goodwill:** Would you accept that something needs to be done to break the logjam?

Emmett McConomy: Yes. The Government need to stop changing things at the last minute, when they have been agreed, and further delaying the processes that have been agreed. That is an honest and open answer.

Mary Moreland: There is little that I can add to what Judith and Emmett have said. The agreements were never perfect solutions. We know they were not. They were an awkward compromise, but we have to move forward. We cannot do to legacy what has been done to the victims’ payment. There cannot be legislation put in place to say, “This is happening,” and then, at the last minute, change it. It has to happen. There has to be visibility. There has to be transparency. Every time there is a delay, it has an impact on victims and on their mental health. If it is not sorted out, it is going to affect the next generation and the generation after that.

Judith has all the numbers, the figures and the policy details, but if you speak to the Victims and Survivors Forum, as I said in my introduction, we are all from different backgrounds. Under normal circumstances, I would never have sat in a forum with Emmett. We would never have met. However, the one thing that the forum has going forward is that we want this to stop. We want legacy to happen. We want the proposals put in place and for it to move forward and not be delayed any more. If that



means knocking heads together, knock heads together. That has to come from Westminster.

Q24 **Mr Goodwill:** Turning to Judith now, would you not agree that the suggestions from the Secretary of State in his statement would be an attempt to try to knock heads together, but that there will, I suspect, be some red lines? As a student, I can remember hearing about bombers being blown up while they were constructing their bombs, and punching the air. I think many people and taxpayers would have grave reservations about making payments to people who, as the Chair said, have been injured by their own hand. So long as that remains as a blockage, Judith, is there a way forward? Can we do something to improve the new system or is it, as you said in your opening remarks, abandoning the elements of the Stormont House Agreement and, therefore, unravelling the progress that we have made?

Judith Thompson: I would distinguish, first of all, between investigations and legacy mechanisms, which are about bringing an end to a situation that we have at the moment where 900-and-something cases and 1,100 deaths sit with our Legacy Investigations Branch in the police. With the best will in the world, the police are neither funded nor equipped to go through those. That is families. That is the families of soldiers, police officers and everybody else in all communities across these islands being told, unlike in your constituencies in England, "Yes, we know you lost a mother, a father, a brother, a sister, but we have never had the ability or the resource to even interview witnesses about that." It is just locked down somewhere. That is where we sit right now.

Those people are left choices around seeking a judicial review, trying to get a legacy inquest or trying to get some kind of an inquiry. For a very small number of those people, in a piecemeal way, they get there. For the vast majority, they are continually told, "We do not have the resource to deal with this." Do remember that I am talking here about soldiers' families living in England or Northern Ireland, police officers' families, republicans' families, loyalists' families, nationalists and unionists—everybody. We have everything in that pot.

Solving this is not about playing to one agenda or another, and should not be. It should be about delivering acknowledgement of harm and wrongdoing, as much truth as can be achieved, and at least showing all those people that the Government care. The Stormont House Agreement has been described as a bit of a camel in terms of having had to find a way to stitch together the different things that need to be done: an Oral History Archive to have a better educated conversation going forward; an acknowledgement process that could look thematically at harm done and, even where there are not prosecutions, give families some acknowledgement of harm; an information-retrieval process for people who are never going to find anything out through investigation; and an investigation process that gives a factual spine to what we do going forward.



For me, those are the important things to hold on to and, every time we have come close to an agreement about dealing with the past, those elements have been there. That is what we need to hold on to here.

Q25 **Mr Goodwill:** The Secretary of State talks about finding compelling evidence with a realistic prospect of prosecution. It does not sound to me, from what you have said, Judith, that you want to focus only on those cases; you want a more general investigation of every case, which may be very time-consuming and not necessarily result in the evidence being collected for a realistic prospect of prosecution.

Judith Thompson: As I said earlier, the objective cannot be just about prosecutions, because they are really hard to achieve with old evidence. However, you do not know which cases can show progress until you try, so a review will not tell you what is in other security files. It will not tell you what witnesses who have never been interviewed might tell you. It will tell you what DNA evidence might be sitting there somewhere. It will not tell you what families need. We do not know the detail of what is proposed, but any process that does not take a proper look at each case will not know where there is a prospect and where there is not. The families affected are being told, "We are closing this down and you will never really know." As I said, this is all families: soldiers' families, police-officers' families, and the families of republicans, nationalists and everything in between, and there are thousands of them.

Emmett McConomy: Just in relation to investigations, an example would be of my brother and many other cases out there. Our Stephen was a child who, at 11 years of age, was shot and fatally wounded, and who died three days later. When he was shot, the soldier who shot him was interviewed by the military police, and he gave a statement that he was aiming for someone else, that he hit Stephen by accident and that there were no other innocent bystanders present on the day. That was his statement and he stood by it. That was all the evidence that was gathered. The witness statements from independent people were never gathered by the police. When Stephen's life-support machine was switched off three days later and he died, he was interviewed again for all of two minutes and he said, "I have nothing to add and I stick by my original statement". We are talking about the death of a child, and the police took that statement: "I was aiming for someone else and I shot a child". That was their investigation. They did nothing else. They did not interview anyone.

When we talk about gathering evidence and no new evidence, if the evidence was not gathered at the initial evidence, all evidence is new evidence. All the witness statements that were never taken at the time my brother was shot, and that have now been submitted, are new evidence. That will be the case for many people, regardless of who the perpetrator of the alleged incident was. That will be the case across the community, where, at the time, there was an awful conflict going on and things were either not done deliberately or it was unsafe to do. That is



HOUSE OF COMMONS

where we stand. If we are talking new and substantial evidence, the evidence was never really gathered in the first place, because, to take that as a statement in the death of a child and have that as the investigation, that would not be allowed to happen in Manchester or in the bombings in London. If a child was killed in London at the hands of a police officer, it would not just be left as, "I was aiming for someone else and that is the end of it".

We have a duty of care and we have a responsibility, not only morally but legally, to address these issues of the past and to try to heal people, communities and society, so that we can go forward and this will never be allowed to happen again.

Q26 **Mr Goodwill:** Was there an inquest for Stephen?

Emmett McConomy: An inquest was held for Stephen in Belfast, which I could go into great detail about at length. It was a farce. My family was intimidated, bullied, harassed, sneered at and laughed at by the soldier who had shot my mother's eldest child. There was an inquest and the verdict was that it was an unlawful killing. There was no justification for the firing of the baton round. Again, the coroner ordered the foreman back in to say, "You are not allowed to use language like that in this court," and to change the verdict. It was changed to "unlawful", and that was the verdict.

Q27 **Claire Hanna:** Thanks, Judith, Mary and Emmett. I know how frustrated I and party colleagues have been over the years with a litany of delays and political failures over victims' issues. I fear that, each time we revise the proposals, they are degraded and the outcomes become worse for victims and probably better for victim makers of whatever hue. I also just want to comment on the pensions impasse, which just underlines the urgency and is just yet another occasion when victims and survivors have been let down by the political class. I wanted briefly to pass on condolences that I am sure members would share to the family and friends of Paddy Cassidy, who was a prolific campaigner for the victims' pension and who died this week. That underlines just how time sensitive an issue this is that we are dealing with.

The Chair asked about the extent to which you have been consulted since March, and it is unfortunate that that has been in lockdown and that victims have not had the opportunity to meet in the normal way to discuss these issues, but I wanted to ask when you first became aware that the UK Government intended to bring proposals that deviated so substantially from the position agreed at Stormont House?

Judith Thompson: I saw the press release during its embargo period on 18 March. I had no pre-sight or foresight of that announcement.

Q28 **Claire Hanna:** Was that an oversight or were these proposals brought without any prior consultation about how the contents would be received by victims?



HOUSE OF COMMONS

Judith Thompson: I have talked to as many of the interested parties as possible, but nobody else is able to tell me that they were cited on that before the announcement was made.

Q29 **Claire Hanna:** The statement that you refer to from 18 March talks about the need to obtain a broad consensus on the revised proposals. Based on your engagement and on the fact that nobody was consulted, do you think a broad consensus is possible on these revised proposals?

Judith Thompson: It is absolutely impossible to know because you cannot consult on a proposal that nobody has seen.

Q30 **Claire Hanna:** In terms of what we have seen, and I agree that there has not been adequate information, the statement of 18 March says that these proposals put victims first. Is that a perception that victims and survivors will have about these proposals?

Judith Thompson: It is not possible for victims and survivors to feel that they are being put first by people who have not talked to them or explained to them what is proposed. I am not saying that there is no potential to shape this in a way that could be helpful, but that process cannot happen without telling people what is intended.

Q31 **Claire Hanna:** Based on what you have seen in the 18 March proposals, are they compatible with the British-Irish treaty from Stormont House and the European Convention on Human Rights?

Judith Thompson: I would refer you back to a pretty detailed piece of work done by the law faculty at Queen's University over the last number of weeks that looked at all the proposals, including the new one, and came to the view that, on the face of it, it would not be compatible with either of those things. I would qualify everything by saying that we genuinely do not know what this is supposed to look like.

Q32 **Claire Hanna:** I know that the witnesses will be more aware than anybody that different individuals and different families have different needs from legacy mechanisms, and different expectations and different possibilities. However, given what we know of them, the 18 March proposals effectively close the door on justice and truth to many families. Will that further the aim of reconciliation, which is apparently the stated aim of these proposals?

Judith Thompson: First, it is very clear from our experience to date that, when you tell any group of people seeking acknowledgement of terrible wrong and harm done to them that the door is closed to them, that does not help anybody to feel recognised, validated and reconciled. Also, it is really important to recognise that, in every family, there will be people who want information and people who desperately do not, so choices and options are what must be on offer: choice as to whether you read a report now, whether you say, "I never want to see that report," or—and I know people do this—put a report in a drawer and say, "I do not want to read that right now but I know I have it and, one day, if I



want to read it, I will". That is what choices and options look like, and closing them down does not help reconciliation.

- Q33 **Claire Hanna:** You referred earlier to Operation Kenova, and I know there is a perception that sometimes investigations take a long time and a lot of resource and do not yield much, but can you give an assessment of Operation Kenova and how that has worked as a manifestation of legacy investigation and practice in terms of engaging with victims?

Chair: Judith, before we do, can we not reference any individual cases but restrict your comments to the generic operation, if you do not mind?

Judith Thompson: Absolutely, yes. Just to be very clear, I have a role as a member of the victims' focus group. We do not have access to evidential material and I absolutely and fully understand the need to make sure that investigations must never be compromised, so thank you for that.

What we see in Operation Kenova is the application of good-quality, modern victim engagement, victim liaison and family liaison, and good investigation into some of the most painful cases that emerged from the conflict. What it shows is that, in some cases, there is evidence and we know that, in that instance, files have gone to the PPS for consideration. It also shows that, in a great number of cases, there is evidence and information which, though it may not give prospect of a likely conviction, is certainly of a level where families can be given answers and acknowledgement.

It is important. In many ways, it is a prototype for how investigations can be carried out. It is expensive but I know that, at least until quite recently, the Department of Justice looked quite closely at that Kenova investigation to model the resourcing of a proposed Historical Investigations Unit, and they felt it was doable—difficult but doable—and the lessons learnable. It is an important example and a kind of model for current investigations.

- Q34 **Claire Hanna:** Mary said in response to Robert Goodwill's questions that the Stormont House mechanisms are not perfect and are an awkward compromise. That is the Good Friday agreement and that is what we live in Northern Ireland. The Stormont House Agreement had a commitment to full disclosure. Has that been honoured by various sides?

Judith Thompson: The Kenova investigation is a good way to look at what happens with disclosure. It is perfectly clear, for a variety of reasons, that disclosure has not all happened. When you look at what they managed to do in Kenova—and this Committee should hear this from Jon Boutcher, not me, since he could explain it in far more detail—is that, if you have information-sharing protocols and a degree of confidence in the security and the way information will be handled, information that has not been previously accessed can be accessed, to the benefit of those families who lost people.



HOUSE OF COMMONS

- Q35 **Claire Hanna:** Judith, you referred to that document from Kieran McEvoy, Louise Mallinder and others from the law department at Queen's. Addressing that point of omertà from various sources, about people not disclosing the truth or their actions, for a variety of reasons but perhaps related to how it might convict them, they had outlined one potential compromise that would, essentially, implement the Stormont House Agreement. It would deliver on article 2-compliant investigations but then use the Northern Ireland (Sentences) Act to reduce to zero jail time for people of whatever background who have gone through a process and who have been convicted, but who have engaged with truth and justice and the needs of victims. Is that a proposal that could be workable or acceptable to victims?

Judith Thompson: I know that some victims' groups have responded very angrily to the suggestion that anybody—a soldier or anybody else—could be clearly found guilty by a court and then not sentenced to imprisonment. That team had a session with the Victims and Survivors Forum and worked through the different possibilities and outcomes. There were some for whom people going to prison was genuinely an important recognition of the harm and wrong that was done. For most forum members, having looked at it all, they understood that the option is between a two-year jail sentence for anyone, including soldiers, under the Good Friday agreement as it stands, with very short or no time, based on some change to the Act. Most people felt they could leave with that and that it was a great deal better than saying there will be no investigation, no truth and no acknowledgement.

- Q36 **Ian Paisley:** Can I thank Judith for the work that she does, and can I thank Emmett and Mary for their very powerful presentations to the Committee, which are provocative in all the right ways and force people to think? That is very powerful, so thank you. Judith, can I particularly thank you for your letter of 2 June, which has pushed this debate forward in terms of the pensions issue? We hope that we get release on that soon.

If I could turn to some questions with regard to Stormont House and Government policy in this area, Judith, if the Government's proposals are implemented, will they promote reconciliation in Northern Ireland? That is one of the terms of reference that we have, and we have to ultimately look at whether we are going to achieve that.

Judith Thompson: I would come back to one of the comments I made earlier. Our country, the constituencies of all members of this Committee and other parts of the UK contain people who, like Emmett—and who are often soldiers and police officers—feel that the wrong done to them has not been acknowledged, because it has not been investigated or publicly attributed, or because no one has taken responsibility. That is the first step in reconciliation. As human beings, people do not find it easy to listen to somebody else's perspective when their own experiences are being denied or put under the carpet. I genuinely believe that, for people to be open to the experiences of others, they need to see their own



HOUSE OF COMMONS

experiences acknowledged. To close down the vast majority of those cases permanently, whether the families wanted it or not, will not build a more reconciled place.

- Q37 **Ian Paisley:** One of the other areas that is part of the terms of reference for us is where political policy becomes an impediment, potentially, in all of this. It is a policy that is endorsed by one party in its manifesto and there has been express support from the Opposition in public comment. What legislative steps should the Government take that can address what have been described as vexatious claims against veterans? Have you looked at that? Has that come up as part of your process, given that this Bill has included, at times, reference to that?

Judith Thompson: Yes, of course I have, and many veterans, like Mary, are amongst my forum and the people I serve as Victims' Commissioner. That includes veterans living in England. I am very conscious of and welcome the fact that we are getting a Veterans' Commission for Northern Ireland and I look forward to working with the new Veterans' Commissioner.

However, there are some numbers and a sense of proportion here that needs to be borne in mind. First of all, there are five cases involving six soldiers who are being prosecuted in Northern Ireland. I do not anticipate that any great number of investigations will lead to a big change in that number. For those six families who will be relieved to hear, I am sure, that their family member was no longer being investigated, there are hundreds of soldiers' and police officers' families who, in this process, will be told that they will not see investigational truth. I talk to some of those people and they feel the same hurt and pain as everybody else.

Also, unlike Iraq, Afghanistan and other theatres of war, in Northern Ireland this was not a war. This was under UK Government and UK law, and it is UK citizens who suffered harm. Prosecutions happen only when you have had a police investigation and a Public Prosecution Service decision that there is enough evidence to give a decent chance of conviction and that it is in the public interest. Veterans and their families need to be better apprised of the processes that are being followed here, the numbers that are in prospect—six at present and maybe twice that ever—and the numbers of soldiers' families who may want access to the same investigations and opportunity for acknowledgement of harm.

- Q38 **Ian Paisley:** Your comment about proportionality is well made. It reminds of the John Hume quote that Irish people have killed more Irish people in the name of Ireland than all the British soldiers and police officers combined. That sometimes does set a sense of proportionality. I know it does not give comfort to those people who have lost their loved ones because of soldier and police activity, but the proportionality issue is important. It appears that the Government are going to remove from the Bill the issue of the non-criminal misconduct charge. Would you welcome that? Is that a diversion?



Judith Thompson: I never felt it was as large an issue as it was being seen to be. The work of the Police Ombudsman is in relation to police misconduct and also in relation to legacy investigations and, where that police misconduct was as a result of a legacy case, the two were proposed to go together into the HIU. I was certainly advised by the former Police Ombudsman's Office that he felt what the HIU would have would be fewer powers than he already had in dealing with those matters. It certainly led to the perception that non-criminal conduct was going to be treated in the same way as criminal conduct. Nobody wants that to happen but it is also worth being really clear that, in relation to non-criminal misconduct, an investigations branch or, indeed, the Police Ombudsman often cannot do too much to an officer who is no longer serving, so the outcomes of those investigations would not have been of any great personal consequence to the individuals involved, unless there was evidence of criminality, which is different.

Q39 **Ian Paisley:** You would accept, however, and I am sure it is a point that Mary would feel, that the allegation and the charge, even if they went nowhere, would hang over someone like a sword of Damocles and probably poison their professional career going forward and how they felt, and could just add to the angst that they have had, and the fact that it has been pushed to the side seems to be a good thing.

Judith Thompson: In any investigation, including criminal misconduct, it is really important—and I would fully endorse and emphasise this—that the person being investigated has a right to support, to a fair process and to a decent hearing, and that no one takes lightly the pain that anyone experiences when on the wrong end of an investigation. We also live in a democracy and we have to have transparency.

Q40 **Scott Benton:** Good morning, Judith. In your opening remarks, in reference to the proposed changes to consolidate the information recovery and investigation aspects of the system into one brand-new, distinct body, you seem to suggest that such an approach would lack transparency and independence. Can you elaborate somewhat more on why you feel that would be the case?

Judith Thompson: The point about the separation of investigations from information retrieval was so that neither process would be contaminated by the other. I accept that that was a very tricky thing to design in, and quite flawed; however, the critical point is about independence. If you have one body deciding that it will do a desktop review, that it will tell the family then that they do not think there is a decent prospect of a conviction, so it is being closed, and then inviting the family to go into an information-retrieval process not based on robust evidence and without them—this is important—having some robust information against which to judge the fullness, accuracy and truthfulness of what is disclosed to them through information retrieval, that is flawed. It leaves families having to decide whether to go into a process where people will tell them what they think happened, remember happened or believe happened, with no proof or evidence, without an investigation. That is a serious flaw.



Independence means transparent; independent means open to public scrutiny. It also means it must involve looking at all those things. I do not see how they are properly reflected, and that is partly because we have no detail in the new proposals.

- Q41 **Scott Benton:** You have made it clear in relation to why you feel it would lack independence and contaminate the two issues, which I have some sympathy with. The Northern Ireland Human Rights Commission has stated that it is concerned that consolidating the bodies would also lead to a lack of focus in the two distinct areas as per what would have been the case, arguably, under the Stormont House Agreement a few years ago. Is that also the case in terms of a lack of distinct focus?

Judith Thompson: I guess so, but I am going to come back to a much more everyday phrase, which is choices and options: the choice and the option of reading that investigative report; the choice and the option of, with or without that, going to an information-retrieval process; the choice and option of going to an Oral History Archive and telling your story that way, and listening to others; the option and the possibility of a statement of acknowledgement from the IRG in relation to your own case or others like that. Some of those choices and options are also obscured, if not removed, in the current proposals.

- Q42 **Scott Benton:** If I can bring in Mary and Emmett, assuming you agree with Judith's comments in relation to some of the issues regarding contamination and a lack of transparency, what steps can the UK Government now take to ensure that the institutions are seen as trustworthy, independent and transparent going forward?

Mary Moreland: Thanks, Scott. That is a big question: what can you do? What you need to do is to engage with victims and survivors and to engage with the forum, because the forum universally, for want of a better word, covers all aspects. You talked about investigations and prosecutions. I am very proud to have served and that many of my family have served. I believe I served in the best armed forces in the world, but I do not want an investigation. There are still some unanswered questions relating to my husband's death but I do not want it. As Judith said, it comes back to choices and options. I can live with those unanswered questions, but there are a lot of people who cannot. If they want that, they have to have the choice to engage or not. I cannot really add much more than that.

Emmett McConomy: Again, it comes down to one big issue for me, which is trust. Sorry, but I am going to be brutally honest: it is trust—the best prediction of future behaviour is past behaviour. With the British Government, it has been delay, delay and picking apart all the agreements that we have put in place. We have legacy proposals now that we do not know the detail of, so how can we trust an agreement that we were not consulted of and do not know the detail of, yet, "It is alright; just go with us. We know what we are doing". I am sorry, but no. There is a lack of trust within the victims' groups because we do not have the



detail and we were not consulted, so what can we do? We need to engage in a meaningful way with a view to influencing and changing the proposals, but we need to know the detail. We need to know what they are, because at the minute we do not.

Q43 Scott Benton: Thank you, Emmett. That message is pretty clear there. Judith, have you any final comments in relation to this point before we move on?

Judith Thompson: To highlight what Emmett just said, we are in a situation now where this issue has been mishandled, from everyone's point of view, for so long that there is no trust on any side. The only thing you can do in a situation where you do not have trust is to build in as much transparency and make everything as visible and as accountable as you possibly can.

Q44 Chair: In terms of the consultation engagement that Emmett and Mary referenced and Judith speaks to, frustration of political process is high and the inability to deliver a product is becoming increasingly irritating. What is your ideal cut-off date for any consultation or evolution of the thinking? There has to be one; otherwise, this just runs into the weeds every time. I do not know, Judith, whether you have a thought on that.

Judith Thompson: I would just say that consultation is laid out very clearly when you are engaging in legislation. There was a robust consultation on the Stormont House proposals and the draft legislation attached to it. It drew over 17,000 responses and took place over a proper period of time. The problem is that, if you then make radical change and do not tell anyone what it is, you are risking breaching, I would have thought, what is lawful practice in terms of using legislation.

Q45 Chair: Is there a difference with consulting on a set of proposals, reflecting upon the responses to consultation and then those finessing proposals? For those who do not like what the response to the consultation process produces, the default position being to say, "Let us have some more consultation", consultation fatigue sets in and attrition or erosion takes place until we forget what on earth we were consulting about and why. Is there not a danger of that?

Judith Thompson: There is always a danger of that, but I would say in this situation that, first, until we see what is proposed, we do not know how much they differ from the original proposals, so it is very hard to say, "Is this something that is new legislation and needs to be reconsulted on?"

The second thing that I would say is that there is consultation and there is co-design. Even when you have a legislative framework, both in the design and in the consultation process, but also in the implementation of it, you need to be working in co-design with victims, survivors, communities and the stakeholders who it will affect. What I would say is that there is a process whereby you arrive at legislation, and those people must be involved in it. Then there is a process whereby you make



it happen and look at what it is going to look like. At that stage, the Victims and Survivors Forum is a legally cross-cutting, mandated body and a commission. That is my job. We must be involved in the co-design, and so should all those other funded and non-funded organisations that provide support and help to victims and survivors, and so should civil society. At the end of the day, that is who is going to benefit. Everyone in Northern Ireland needs this.

Q46 Caroline Ansell: Thank you to Emmett, Judith and Mary. It is a very powerful experience to hear your stories. Thank you for all the work that you have done. Judith, you are so very right when you say that the pain of this is felt across these islands. My hometown is Eastbourne, and many members here may remember that, in the 1990s, Eastbourne MP Ian Gow was murdered at the hands of the Provisional IRA, so it touches far and wide.

I wanted to return to earlier in our discussions when we were talking about the investigation of cases. Given what you said around the details that are still to come, I wanted to ask if you felt that the balance was right in terms of those cases that might go forward for full investigation. I am very mindful, Judith, that you said that to simply close cases does not build reconciliation. Mary said that she would not choose further investigation. Even though you have unanswered questions, it is not something you would choose. Where, then, might you put the threshold for investigation, particularly in the light of the fact that, as you said, new evidence can be found and legacy cases can be revisited, which has been shown to be quite effective under the Kenova investigations? Where should that threshold be?

Judith Thompson: Thank you, and thank you for reminding everybody that they all have constituents affected. In talking to families in London, Birmingham, Manchester and in the Republic of Ireland, I believe that those people who suffered loss outside Northern Ireland are, in many ways, worse off, because they do not have a community around them that understands the lasting impact, because a lot of the proposals do not fully incorporate their experience, and because of the situation regarding services to victims and survivors outside Northern Ireland. Whilst the Victims and Survivors Service does now fund such groups to the best of its ability, some are not at the level that they are here. I talked to a lady in London not so long back who was bedbound as a consequence of her experiences in the Troubles, and I know she was not getting the support and help that she would have got if she lived here.

To move on, it is a normal investigative threshold. If this was any other kind of killing that you were looking at 30 years later, what would you do? You would apply the principles of investigation. You would look at what the evidence was and at what evidence had not been gathered. You would then pull that together and make a reasonable decision on what you could do in terms of moving forward with a prosecution and what you could not. To me, that is an investigative process and that is what should happen here.



What should not happen here is that things get closed down in a way that they would not be if they were not Troubles legacy cases. The proposal that these cases be permanently closed does not apply to anyone else who has lost someone they loved in any other circumstances here. These are very contentious proposals and we do not have any detail on what they will look like. If you said to a family, "We will investigate this as best we can and, when we tell you we cannot go much further, you have the option of going to information retrieval", that is right; that is how it should be. To say to a family, "We have had a quick look and we cannot share everything we have looked at. We will give you a summary report and then you can choose to do something else if you want", that would be wrong.

Q47 Caroline Ansell: In terms of revisiting based on evidence not sought at the time, or a lack of will to do so, do you anticipate that there could be very many cases and that this will potentially be an issue around that toxic delay? Are we looking at an unmanageable number?

Judith Thompson: We know the number of cases. The police Legacy Investigations Branch has 970-something cases and we know that another 1,500 cases were dealt with by an inquiry as a desktop-review process, which many were not happy with, so we know that some of those should go back into the pot. We have a figure.

Just to clarify one thing, I am not saying that it was a lack of will that led to those family members not being interviewed. A lot of the time, the police could not have gone to the doorstep without coming under attack from paramilitaries, and families could not have spoken to the police without being dealt with as informers, which meant being killed, whatever community you came from. It is not about a lack of will but about a culture.

Q48 Caroline Ansell: Understood. Mary, do you have thoughts on this?

Mary Moreland: It is impossible to put timelines in. Judith has explained it all. Because of the circumstances at the time, people could not have openly gone to the police, so the police could not have gone and investigated it. It all boils down again to choices and options. If someone like Emmett wants the investigation and they are looking for answers, it has to be open, transparent and trusted that it will give the answer. There is very little else that you can say, except that any process—judicial or investigative—has to be transparent. Without that transparency and openness, and the involvement of the people looking for that evidence and those answers, they are not going to trust the result.

Q49 Mr Campbell: I would like to thank Mary, Emmett and Judith for their submissions so far. It has been a very powerful commentary on many issues. On the matter of trying to bring together such a wide cross-section of people who have suffered, I was thinking, as we listened to Emmett's and Mary's comments, that, in 18 months' time, it will be 2022,



which will mark the 50th anniversary of the worst year of the Troubles, if we look statistically at all the years of the Troubles. It is over 25 years now since the ceasefire and, very shortly, we will enter the 50th anniversary of the very worst year of the Troubles. Given that scale of time—I fully accept that many people have either moved on completely or simply find it difficult to move on, and there is a whole multitude of people in between—is there an acceptance in the Victims and Survivors Forum that we may get to the point quite quickly where wider society will discover that we simply cannot uncover what happened? People want to get to the truth but, given the passage of time, it might not be possible to achieve that.

Judith Thompson: My very short answer is that this will not go away at any point. I have seen children and grandchildren try to carry cases forward, and that is a very wrong thing to be left to do. The prospect of prosecutions is slim, and of convictions much slimmer, but the need for transparency, acknowledgement and some factual honesty about the past is important. I would like to leave Mary and Emmett to speak from their perspective, to answer your question.

Emmett McConomy: The passage of time really should not come into it. When we have had 20, 30 or 40 years of delays, it is disingenuous to throw the passage of time into the mix and to say that it is unlikely to recover evidence because of the tactic of delaying, postponing and not investigating legacy issues. It is disingenuous to put it down to the passage of time. Everybody has a fundamental human right to a European article 2-compliant investigation. Society and victims need it.

Mary Moreland: You cannot put a timeframe on it. You cannot draw a line under it. If we go back to the victims' payment, Claire very ably identified the death of an individual who fought and campaigned for it. You cannot put a timeframe on it. These people need answers now. Victims and survivors need answers. Society as a whole needs answers.

You do not move on. I have never said I have moved on. I have moved forward from what happened to me, but you cannot ignore the past. There is no way you can ignore the past. You have to revisit it. You have to understand it. You have to understand the unconscious prejudices that have been there throughout that and recognise those. You cannot put a timeline on it. It boils down to the fact that the Victims and Survivors Forum and the commission need that detail of the proposals. We need to look at those proposals. We are in the process of refreshing the forum and going out to get more people into it. Only by getting involved in this and in the forum with the Commissioner can we change it and move forward. If we are all speaking with one voice and moving forward, we will, hopefully, get to a stage where we are maybe not drawing a line under it, but at least where Northern Ireland society and UK society as a whole will be in a better place.

Q50 **Stephen Farry:** Welcome to Judith, Mary and Emmett this morning. It has all been very useful. Turning to the granularity and detail of the



proposals in so far as we have seen them from the UK Government, could I ask Judith to elaborate a little on the potential dangers of this filter around the idea that only in the circumstances that there is a “realistic prospect of a prosecution as a result of new compelling evidence” would a case proceed to a full police investigation? How does that sit with article 2 and, indeed, the risk of some judicial review being taken against such a scheme?

Judith Thompson: You have heard at length what the impact of that would be on a family. Moving to article 2 compliance, first of all you would have to show the independence of the decision that a case was not going to be subject to further investigation. I do not know how that independence comes from within one body that combines so many functions, but it seems to me that you would need to have a lot of public accountability and somebody outside of what is proposed to create any independence around that decision making. It also has to be effective. How can you make effective decisions if you have not had access to all the relevant information? How do you know you have had access to the relevant information with a desktop review? There are issues about independence; there are issues about effectiveness in terms of access to information.

We are told it will be prompt. Is it open to public scrutiny? Who oversees this process? Who inspects it? Where do the appeals go to? Also, how will it involve families and next of kin? That is important too. For all of those reasons, there is a high likelihood, or almost certainty, that what seems to be proposed will lead straight back to the courts, and we could have another long period of what has been called “lawfare”. It costs more than doing it right, in financial terms. Last time we counted in Northern Ireland, we spent £30 million a year dealing with the past, through things that were not dealing with it, just in terms of the costs of judicial reviews and existing mechanisms. We have been doing that for decades, so that is hundreds of millions of pounds. That will add up to more than the cost of the investigative process, if we continue to do it that way.

Q51 **Stephen Farry:** As a follow-up, Chair, is there still value in an investigation and the various disciplines involved with that, even if it does not lead to a prosecution, compared to a pure truth-recovery process, which may be self-serving or self-selective in terms of what information comes forward from those involved in a particular case?

Judith Thompson: I would like to pass this one to Emmett and Mary. My brief comment would be that there are people for whom an information-retrieval process may tell them things that a court case will not. I know people who really want to go down that route and I would fully support their right to do so. However, I have also seen people go down that route in informal processes and be given information that was incorrect—not necessarily wilfully so, but it happens. That is worse than nothing. That is terrible, so yes, there are concerns. Maybe I should ask Emmett or Mary.



HOUSE OF COMMONS

Emmett McConomy: Stephen, it is down to choices and families again, but the devil is in the detail. It is very hard to make comments on proposals that we do not have the detail of. It is as simple as that. Without the detail, it is very difficult.

Chair: The detail is the key thing.

Emmett McConomy: Yes.

Mary Moreland: I would reiterate that. It is the detail and the choice.

Q52 **Mary Kelly Foy:** Thank you, Emmett and Mary, for sharing your experiences with me, and condolences to you and your families. Thank you, Judith, for all the work that you are doing. A lot of the ground has been covered on the question that I am going to ask about what it means for victims and families and what you want in the new system. I just wanted to ask you—and I apologise if you are unable to answer this—why you think the Government have now departed from the proposals that a Conservative-led Government negotiated under Stormont House. What do you think the reasons are for this new departure?

Judith Thompson: My very short answer is I honestly do not know. I was not consulted.

Chair: You must have a hunch.

Judith Thompson: The context was legislation to close down investigations into soldiers who had served overseas in Iraq and Afghanistan. All I would say—and this was recognised to a degree—is not to apply that context to Northern Ireland. Do not apply assumptions about vexatious prosecutions to a process that is police investigation and a very competent Public Prosecutions Service decision. Do not conflate what happened to UK citizens on UK soil in a situation that the Government were very clear was not a war with what happened overseas in other theatres and other places. That is the very short answer from me.

Mary Moreland: I would just say that it is irrelevant which Government are in power. The problem is that it is just difficult and there is a lack of understanding of Northern Ireland at Westminster. There needs to be communication from Westminster and more communication and engagement with the Victims and Survivors Forum to understand the issues.

Q53 **Chair:** Mary, I agree with you entirely. Given the history and the community sensitivities, a lot of people in Westminster tread lightly and skirt around—"Job done and we can move on"—in the hope that, speaking to Emmett's point, time elapses and people forget. It is a bit like the Schleswig-Holstein question: one person forgot, one person died and the other person went mad. There is a real danger of that.

Judith, I have one hopefully quick-fire question. Thanks to both Mary and Emmett, who provide examples of people who do not fall into this



HOUSE OF COMMONS

category. There are people in Northern Ireland, on both sides, as it were, for whom questions left unanswered, criticism of process and unwillingness to accept decisions is very useful. They do not want closure, because it furthers causes, etc. How do you, as a commissioner, weed out those who will never accept closure, solution or legislation, principally because it does not serve their objectives, and therefore allow the system to focus, Exocet-like, on people like Mary, Emmett and others?

Judith Thompson: It is really important that we approach anybody who has suffered harm with respect for their experience and a right to feel whatever they feel. For me, that is just a given. When you treat anyone's experience with less than full respect, whatever their motivation, feelings or choices are, thousands of other people who had an experience like them will look at it and feel that they, equally, are not being respected or listened to. You approach this in a way that is always transparent, balanced and lawful, and you treat everybody's experience with respect. In a sense, people have the right to feel how they feel. That is how it will be.

Chair: Can I, on behalf of the Committee, thank you for adding considerable value to our inquiry? You have certainly given us a lot of food for thought. To reprise a phrase I used earlier, the quiet dignity with which you told incredibly powerful and moving stories certainly resonated with all of my colleagues on the Committee.

Thank you for your time and for the work that you are doing on behalf of victims. We will, of course, furnish you with a copy of our report when it is published. If you have what I always refer to as the Columbo moment—"I wish I had said," or, "I wish I had been asked"—and there is something that strikes you at teatime or whenever, please feel free to make a written submission to us and we will take that onboard as we weigh and deliberate all the oral and written evidence that we have received. Thank you again, and thank you, colleagues.