

Northern Ireland Affairs Committee

Oral evidence: [Work of the Secretary of State for Northern Ireland](#), HC 498

Wednesday 18 October 2017

Ordered by the House of Commons to be published on 18 October 2017.

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Members present: Dr Andrew Murrison (Chair); Mr Gregory Campbell; Maria Caulfield; Lady Hermon; Kate Hoey; Jack Lopresti; Conor McGinn; Nigel Mills; Jim Shannon; Bob Stewart.

Questions 1 - 70

Witnesses

I: Rt. Hon James Brokenshire MP, Secretary of State for Northern Ireland; Sir Jonathan Stephens KCB, Permanent Secretary, Northern Ireland Office.

Examination of witnesses

Rt. Hon James Brokenshire MP and Sir Jonathan Stephens KCB.

Q1 **Chair:** Secretary of State, Sir Jonathan Stephens, welcome. It is great to see you, particularly given the inclement weather. It is a great pleasure to see you here and a relief to see that the weather did not delay your arrival. On that note, I would like to pause and express the condolences of the Committee to those who have been adversely affected by Hurricane Ophelia and continue, sadly, to have their lives disrupted. Our thoughts and prayers are very much with them at the moment.

Secretary of State, on 9 October, you said that towards the end of the month you would be able to give some sort of definitive statement as to the way forward. What we would like to start with, if we may, is an opportunity for you to update the Committee on the current situation. Perhaps take a few moments to do so before we go into questions.

James Brokenshire: Thank you, Dr Murrison. Can I at the outset welcome you and the rest of Committee to your positions? This is the first time I have had the opportunity in this session to give evidence to your Committee. I wish you all well with your inquiries and investigations in the session ahead.



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Like you, I would like to extend my own thoughts, prayers and condolences to all those who have been affected by Hurricane Ophelia across the island of Ireland, and especially those who have suffered the loss of loved ones. Perhaps I can also give a brief update on the recovery work that has taken place and some of the extraordinary efforts that have gone into seeing that Northern Ireland has been able to continue to work and function, especially on issues such as the restoration of power for those who were adversely affected by the loss of their electricity supply.

The latest information I had in talking to NIE suppliers last night, and having had a further update this morning, is that the number of customers without power has dropped overnight to 270. The recovery work is still going on apace to ensure people are having their supplies restored. I know that 52,000 to 53,000 homes saw the benefit of that hard work to restore power and electricity after those very damaging storms earlier this week.

Dr Murrison, yes, I want to update the Committee in relation to the talks process and the restoration of devolved government. As you will be aware, there has been intensive engagement between the DUP and Sinn Féin over recent weeks. That has created a greater intensity, a greater tempo of engagement and greater understanding between the two parties. We had been moving in a positive direction, highlighting where the issues of difference were and closing a number of the gaps. There are, however, a small number of highly difficult and sensitive issues, notably in relation to language and culture, where difference firmly remained.

These issues have been the area of particular focus over the last week. Despite efforts and progress, supported by the UK Government and the Irish Government, consistent with the three-stranded approach, a breakthrough has not been reached. If I had given evidence to this Committee last week, I might have indicated some momentum and positive progress. That progress stalled at the end of last week. Unless things change and there is a renewed spirit of compromise, the outlook for imminent resolution is not positive.

Time is running out. As I have expressed previously, without an agreement, we are on a glide path to greater and greater UK government intervention in the day-to-day affairs of Northern Ireland. The Northern Ireland Civil Service has acted impressively to maintain public services and to work within the constraints that it operates within. I pay tribute to David Sterling and his officials for all the work they have done.

That cannot continue for much longer. Anyone in Northern Ireland would have noted and seen the challenges in public services, the way that business and industry are identifying loss of opportunities and, equally, the pressures being felt in the community and voluntary sector, where



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contracts have either not been renewed or had to be operated within a tight constraint.

In terms of mapping out where we go from here, the latest point at which an Executive could be formed in order for a budget to be taken through an Assembly in time for the needs of the Northern Ireland Civil Service is the week commencing 6 November. I have previously indicated that I would need to legislate for a budget by the end of October. We have firmed up on those timelines with the Northern Ireland Civil Service. That means that legislation for an Executive to be formed to enable the Budget Bill to be passed through the Assembly as a priority item would need to be taken through on that week commencing 6 November.

Q2 Lady Hermon: Are you setting a deadline?

James Brokenshire: I will explain. What that practically means is that legislation to enable an Executive to be formed, to pass that budget, would have to be passed through the Commons and the Lords during the week commencing 30 October. That is the latest point at which legislation could be passed here to form an Executive, to enable that Executive and that Assembly to pass a budget in time for the needs of the Northern Ireland Civil Service.

Therefore, if an agreement is not in place to enable me to do so, I will need to legislate for a budget at Westminster and then consider next steps at that point. I would reiterate that for the UK Government here at Westminster to be legislating for a budget for Northern Ireland is a significant and serious step. It is not one that I take lightly, but one that I believe I would have to take in the circumstances of not seeing a budget in place.

I hope that gives a sense of clarity as to the next steps. The opportunity for the parties to reach that agreement still remains with them. It is in their power to do so with that spirit of compromise. As I say, the prospects do not look positive at this point in time unless things change.

Q3 Chair: Secretary of State, thank you very much. That is extremely frank and incredibly helpful. It is good to have a plan with dates attached. Can I ask you what measures you have taken with parliamentary business managers, given that what you have described sounds as if at the moment we are on a one-way track towards having to take legislative action in this place? As you will be aware, the programme is somewhat constrained right now. I would expect you to have had those conversations already.

Can I also urge you to do everything in your power, as I am sure you are doing, and use all sorts of novel ways of putting pressure on Stormont? I was on BBC Radio Ulster over the weekend and pretty much the first question I had to deal with was: "Do you think it would be a jolly good idea to remove MLAs' pay and rations?" At one level it sounds superficial, but, on doing research, it appears to be the number one solution that



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commentators in Northern Ireland have for focusing the minds of those who are party to these negotiations right now. What measures can you take to make that happen? Is it the case that primary legislation is required for such a thing, given the absence of the Independent Financial Review Panel for all the normal reasons?

James Brokenshire: I can well imagine that this was the first question for you on any media outlet in Northern Ireland at the moment. It has been highlighted very firmly and publicly for some time. What I have said is that, yes, a change would require primary legislation, to allow MLA pay to be set from Westminster, given the existing arrangements that are in place. I have said this previously and I reiterate it to the Committee. If it is clear that we are in an intractable situation where an Assembly is not going to meet, I recognise the clear pressure from the public on saying, "Why should MLAs continue to be paid, and paid at the rate that they are, given the lack of activity that is taking place at Stormont?"

I have said, and reiterate again, that I will keep this issue firmly under examination, and if it looks as if this is not going to make progress, yes, I will certainly be taking steps here to deal with that issue. To be honest, there is consensus among even the politicians in Northern Ireland—the MLAs themselves—that this cannot carry on. They acknowledge that for them to be paid at the rate that they are, not being able to do the job that they do, is simply not sustainable. Therefore, action would have to be taken.

Q4 **Chair:** Is that in the event that an Executive is not formed within a recognisable timeframe?

James Brokenshire: Yes.

Q5 **Chair:** The issue is that the reputation of Stormont is being dragged through the mire. The cynicism that surrounds all politicians is enhanced because people seem to be paid for doing nothing. In terms of the point about parliamentary business, what discussions have you had?

James Brokenshire: I have had a number of conversations with parliamentary business managers. I am keeping them closely informed of progress. We had hoped to be in a position to legislate not for a budget but to enable an Executive to be formed. At this point in time, the only measure available to me in legislation is to call another election. That is something I remain under a legal duty to consider, and I continue to do so. Any other step, even to form an Executive, would now require primary legislation.

Yes, I have been keeping business managers closely informed as to what may be required, whether that be legislation to establish an Executive or, given the timescales I have now outlined, legislation to put in place a budget to enable the Northern Ireland Civil Service to continue to function. Yes, they are well aware of the pressures and needs we are under, notwithstanding, as you rightly highlight, the busy and very packed legislative schedule we already have.



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Q6 Kate Hoey: Thank you, Secretary of State, for that very helpful statement. You said that time is running out. Do you agree that there are a lot of people in Northern Ireland who feel time has already run out? Of course, Secretaries of State always get criticism but you are coming under a little bit of criticism for not acting sooner and looking as if there is a great deal of hoping, hoping, hoping and time going past. Do you feel that there is now a feeling in the country generally in Northern Ireland, not necessarily from the political party leaderships, that this is the time to get this sorted, one way or the other?

James Brokenshire: I firmly recognise the pressures that are out there. People are saying, "Look, we want people to get on with running our public services, making decisions, ensuring that there is that positive, continued progression for Northern Ireland", which is what we all earnestly want to see. That requires political decision-making. Of course, the best possible outcome is for locally elected politicians to make those decisions and be held accountable by a locally elected Assembly. It is the absolute bedrock of the institutions under the Belfast Good Friday agreement.

We have been working tirelessly with others, notably the Irish Government, consistent with the three-stranded approach, to put pressure on the parties. Ultimately, it is for the parties to make the agreement and the decision to go into an Executive, and to see that it is formed. Recent weeks had given encouragement that progress could and would be made to reach that conclusion. That, as I have indicated this morning, has stalled. This is why I am setting out to you the initial next steps, which have to be around the budget. I will then need to consider what further steps are required beyond that, because we cannot carry on with no political decision-making.

The health service is one particular example where reforms are required. The Bengoa report had garnered some broad political support in Northern Ireland to take forward changes that were needed to improve the health service. That is what people want to see and want to get on with. I hear that message loud and clear.

Q7 Kate Hoey: What is your view on the situation with the two parties? It seems to me that one of those political parties is saying quite clearly that it will go back into the Executive immediately without any preconditions, then discuss and try to take on some of the really major issues the other party has. The other party is very clear that it is not going to go in unless it gets an Irish language Act and all these other issues. It is very clearly putting forward demands. Does that not tell us anything about the will of those political parties to make the Northern Ireland Government work? It maybe shows us that one of those political parties does not really care very much about whether Northern Ireland functions properly, because it is much more interested in getting a united Ireland.



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James Brokenshire: It will be for the parties to explain their own positions and, if this does not proceed positively, they will need to account for their own respective standpoints.

Q8 **Kate Hoey:** Do you have a view?

James Brokenshire: Given this sensitive time where we could ultimately still get an agreement, I need to be quite careful about what I say to the Committee this morning, notwithstanding the more downbeat assessment that I have presented to you. We need an Executive that will be sustainable, one that is reflective of nationalist and unionist objectives and outcomes. They are the fundamentals of the agreements we have in place and the institutions that are there. Therefore, it is important that there is agreement and understanding between two of the main parties, obviously with the mandatory coalition arrangements in place in Northern Ireland.

There is a need for a spirit of compromise. Where we have found a way forward in the past, that is what has taken place: parties have shown leadership and have overcome significant problems and challenges, beyond, in some ways, those we are wrestling with at the moment. Even at this point, I would urge the parties to show that spirit of compromise, to recognise that there is a bigger picture out there of how Northern Ireland needs to continue moving forward with economic prosperity. An Executive would have huge opportunities to get engaged in a number of UK government programmes and, I am sure, with international partners on foreign direct investment, to further support the Northern Ireland economy.

Yes, there are some challenges, which I am not going to pretend are not there, in respect to public sector reform. The ability to shape that and, equally, to see that Northern Ireland has that direct voice from an Assembly and Executive as we proceed with the Brexit negotiations are significant issues for Northern Ireland. Northern Ireland would be much better served by having an Executive of locally elected politicians making that case with the framework of the offices they would hold. I would firmly urge the parties to reflect on that bigger picture, and yes, there are differences, but to find the way through those differences, which they have done in the past, and get back into government.

Q9 **Chair:** Sir Jonathan, you head up, if I may say so, a Lilliputian department compared with many departments of state, as I know very well from my exposure to it. Potentially, the arrangements that the Secretary of State has just described would put a huge extra burden upon your organisation. A statement of intent would be that your department was growing, in terms of its budgetary allocation and the staff that it has, both ministerial and non-ministerial. What contingency planning have you been doing for that level of scaling up?

Sir Jonathan Stephens: We have been increasing our staff anyway. We received extra budget in order particularly to work on EU exit



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preparations. We undertake a range of contingency plans, of course. In the event that we had to take on wider responsibilities, that would also come with wider budget, the Northern Ireland block, and the support of the Northern Ireland Civil Service.

Q10 Chair: It sounds to me as if there is some outline scoping, but nothing particularly advanced. This is potentially going to happen in a very short order, is it not? The Civil Service does not necessarily move that fast.

Sir Jonathan Stephens: We are ready for a range of contingencies. We have prepared legislation for some of the contingencies that the Secretary of State has talked about, including to establish an Executive. Naturally, we also plan for a range of other contingencies.

Q11 Chair: I suppose the point that I am making is this. If I was one of the parties looking in on this, trying to gauge how serious the British Government really were, I would be looking at things like what the Northern Ireland Office is doing in terms of expanding against a particular contingency. Unless it saw something reasonably concrete, it would probably be entitled to say that the British Government are not of the view that they will have to take back—I use the awful word—some form of direct rule, since they are simply not prepared for it.

Sir Jonathan Stephens: If it drew that conclusion, it would be wrong. I started in the Northern Ireland Office 34 years ago. I have worked under a range of circumstances. The core of the Northern Ireland Office over that period of time, as things have come and gone, has not changed hugely. It was a little larger than it currently is back in the 1980s and 1990s, but not significantly, because in those days it had access to the full support of the Northern Ireland Civil Service and Northern Ireland departments. Any conclusion about our preparation for various contingencies would be inaccurate.

Q12 Lady Hermon: It is very good to see both of you here this morning. I have three separate topics I would like to cover, following on from the very important statement you have already written to the Committee. Could I seek some clarification? Secretary of State, you mentioned that at the present time you have the power to call another Assembly election. You have that, and that is the only option open to you at the moment. From what you have said to the Committee, you seem to have ruled out that option. You have indicated that legislation would have to come before this House at the end of this month in order to have an Executive, to have a budget. Have you ruled out another Assembly election?

James Brokenshire: I am under a legal duty to consider an election, so, no, I have not ruled out an election. The point I made was that I am under a duty to call it within a reasonable period of time and, while there is still the prospect of progress, that can be interpreted in the way of me not having to call an election straight away. As we did with the previous legislation brought before the House, that requirement was suspended. In other words, the clock was reset at that point. I still remain under



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that duty. It would be for the House to change that, if the House of Commons and the House of Lords were so minded to do. No, I remain under that responsibility and that is something I would need to consider, if progress could not be made.

Q13 Lady Hermon: If progress is made, you are ruling out an Assembly election.

James Brokenshire: If progress is made, as we did before, we can legislate to stop that duty and allow the Executive to be formed, which is why I made the point about the need for legislation to do anything other than an election.

Q14 Lady Hermon: Does that form part of the draft Bill, which I am sure has already been drafted?

James Brokenshire: An Executive-formation Bill, yes, would include that obligation, as it did previously.

Q15 Lady Hermon: It would also include, as you have indicated, a reference to reduction in salary and, I hope, staffing allowances of MLAs if no Executive is formed.

James Brokenshire: Let us be clear on this. What I am talking about here is a Bill that could permit an Executive to be formed. In those circumstances, if an Executive could be formed, an Assembly would be meeting. The reason for me bringing forward that legislation would be that I was confident a sufficient agreement had been reached between the two parties to enable devolution to be established. I have not brought that forward because I am not satisfied, as you will have gathered from the comments I have made this morning. That is the basis upon which I would introduce that type of legislation.

Q16 Lady Hermon: Are you ruling out full-scale direct rule, or are we just going to go gradually towards direct rule? Let us indicate to the MLAs where exactly this flight path is going to take them.

James Brokenshire: Ultimately, if we cannot get agreement, if this becomes intractable, I would have to consider all options, including direct rule. The passing of a Budget Bill itself does not denote that. That is still a further step. That is, in essence, to give the Civil Service scope to continue operating and to have flexibility within its budget. Ultimately, on the glide path I have indicated, it is about further UK government intervention in the day-to-day affairs of Northern Ireland. I do not take any desire in doing that, but it is a duty I hold. The ultimate destination around all that would be some form of direct rule.

Q17 Lady Hermon: Do you think the deal done between the Conservative Party and the Democratic Unionist Party after the general election in June has affected your role as the impartial broker between Sinn Féin and the DUP?



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James Brokenshire: No, I do not. I genuinely do not. If that had been the case, you would not have seen the engagement that took place post the general election, with the parties coming back together again to seek to find that deal between them, or indeed some of the progress that has been made over recent weeks, albeit that, on the issue that has divided the parties of culture, language and respect, we have not been able to find that outcome. We have worked with and had the support of the Irish Government as well, consistent with the normal obligations. They have placed influence on some of the parties too.

Q18 **Lady Hermon:** I want to focus on your role, if you do not mind coming back to that. How do you maintain your impartiality?

James Brokenshire: By working with all the parties.

Q19 **Lady Hermon:** I mean in terms of the deal between the Conservative Party and the DUP. You have clearly said you do not think it has affected your role at all as the impartial broker. Is it not the case that one particular party, Sinn Fein, feels that you are not impartial? Has that not been the perception?

James Brokenshire: I do not think there has been any shift in Sinn Fein's perception of my role as Secretary of State, either before or after the signing of the confidence and supply agreement. That has remained consistent throughout, in terms of its perspective.

Q20 **Lady Hermon:** Sorry, if it has been consistent, what is that perspective?

James Brokenshire: You well know what Sinn Fein's ultimate political aim and objective is: to see a united Ireland. It would have that as its aim and ambition in the approach that it takes. Ultimately, it would not want to see me there, because that is its objective. That is the point I am making. It is not that it has had any change in stance in relation to my role as Secretary of State and the obligations set out under the Good Friday agreement.

All I am saying is that there has not been any alteration in the approach Sinn Fein has adopted to me, either before or after the election and the signing of the confidence and supply agreement. That is the only point I would make. I do not think there has been some sudden change in attitude. I continue to fulfil my role and the firm obligations that the Government remain under, through the Belfast Good Friday agreement, to act for the benefit of all communities.

Q21 **Lady Hermon:** What I was wondering, and perhaps you can elaborate a little, is this. A co-ordination committee has been set up between the Conservative Party and the DUP. Do you sit on that co-ordination committee?

James Brokenshire: I do not, because the co-ordination committee relates to business here on confidence and supply matters, as well as national security and Brexit, and not on issues in relation to devolved



matters, where I have my role to act for all communities in Northern Ireland. That was deliberately so, to underline my unique role in Government and in Northern Ireland, and therefore the way in which we will continue to act fairly for all communities.

- Q22 Mr Campbell:** I have a couple of things, Secretary of State. First of all, you spoke about the issue regarding MLAs' pay, and the overheads, allowances and expenses to run offices. You are right about public concern, but, if you got to the point where you were considering that, pay to MLAs is one thing, but a quite significant part of any public representative's role is their representation of constituents on the ground. I take it you would look at those two things separately, even though they are part of the overall mix. It would be important, would you agree, that MLAs should continue, if there is not an Assembly, to have an effective system in place to represent those constituents, separate and distinct from the salary issue?

James Brokenshire: This is an issue that requires looking at very carefully and further discussions would need to take place. The point is that, if an Assembly is not meeting and there are actions that are not taking place, I would have to, reflective of the public mood, take some steps. Your own party has acknowledged that, if this becomes intractable, we could not simply ignore that. It is not a particular point of issue that some action is required. I recognise, as a Member of Parliament myself, that there are different roles and responsibilities that you hold and actions that you take. The point is that, if an Assembly is not meeting and is not likely to meet, that cannot simply be ignored. Action would need to be taken.

- Q23 Mr Campbell:** I fully understand that. I want to come on to the most pertinent issue, which is the political impasse at the moment. You spoke a couple of times about a sustainable form of devolution, the series of agreements that had been entered into to bring us to that point and that it has to be reflective of both unionists and nationalists. I am glad you said that. I take it that that remains the core of getting a sustainable form of devolution, as it has been for 20 or 30 years of successive changed Governments and the coalition Government: that there has to be a consensus across a politically divided society like Northern Ireland to make that sustainable. I take it, given what you have said, that that remains a core element of any potential breakthrough.

James Brokenshire: That is at the heart of all the agreements that underpin the framework for Northern Ireland's constitutional settlement. It is an agreement that recognises, yes, the differing aspirations and outlooks of unionist and nationalist communities, but also the need to find resolution and agreement that is acceptable to both nationalist and unionist communities. Anything that is going to be sustainable has to be on that basis.

- Q24 Mr Campbell:** Thanks for that, because it brings me to what many will view as the nub of what currently looks like an intractable issue. Further



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to what Kate has said, you have a range of parties but two main blocs engaged in discussions, which we are and have been for some time. One bloc has repeatedly made it very clear that it does not have any preconditions to setting up a Government; that is our party. Another bloc, Sinn Féin, is saying, "We do". Part of its precondition is a demand for something that my community said cannot happen, cannot be supported and cannot be endorsed, because it would give further elevation to an Irish language Act beyond what it already has. It already has public funding; it already is accessible by anybody in Northern Ireland.

If one bloc demands as a precondition something that it knows the other community cannot accept, in your opinion, where does that leave the possibility of a breakthrough? I do not understand why last week some people thought this circle was going to be squared and this week they do not, as you appeared to indicate. Where does that leave the people of Northern Ireland assessing the possibility of a breakthrough?

James Brokenshire: I suppose it comes back to the point I made about compromise and the spirit of compromise that has found our way through in past agreements, where parties have been able to look beyond their difference, see the bigger picture and the benefits for the whole community, not just one or the other community, across Northern Ireland. That is what is needed again: to create that positive spirit. We thought that there was momentum building towards that, but that did alter last week.

That sense of longevity and sustainability for an Executive requires, under the structures that we have, both main parties to be able to and continue to work together, so that you have something that is built on a solid framework, such that we are not in a position where we are all back here again in 12 or 18 months' time. That, sadly, has been the pattern over the course of the last number of years, where we have had that.

Q25 **Mr Campbell:** Many people will agree with what you have just said. What I am having some difficulty understanding is this. If you have one party to the discussions being implacably opposed to a move away from their predisposition, which is that they require certain things before they move, and you say last week there appeared to be some indications of momentum, does that mean at some point last week the light came on in Sinn Féin headquarters and then went off at the weekend?

James Brokenshire: It would be wrong of me at this time, when confidential discussions are taking place between the parties, to provide some form of commentary in detail of what is or is not going on in the talks in that regard. All I will say is that there will be a need to compromise on all sides, if we are to reach a resolution to this. That is what we have seen in the past and I hope can be achieved in the future if we are to get an Executive up and running, given all I have said about the need for that in so many different ways.



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Q26 Chair: Secretary of State, can I press you a little further on that, before we move on to what might be the elephant in the room, which is the issue of the UK's future in Europe and the implications that has for Ireland? I want to ask you a little more about what direct rule looks like. You have said that, if I am not putting words in your mouth, it is quite likely that you will have to be in a position of setting a budget. You are right to say that is clearly different from direct rule. Nevertheless, what matters to people on the ground is whether projects in health and education are going to happen, whether the A6 improvements are going to happen, whether the York Street interchange happens. Those sorts of things are what matter to people.

To what extent can those things be advanced in the event that you set a budget, as you say you will quite likely have to do in the near future? To what extent do you need a little more than that? What is the delta between setting the budget and direct rule, since that is what really matters on the ground?

James Brokenshire: You are right in characterising it in that way, Dr Murrison. Setting a budget allows the Northern Ireland Civil Service to keep things ticking over, if I can put it like that, so that it can maintain public services and funds can go to education, the health service and other public services. However, decisions over strategic policy-making cannot happen. They cannot happen. Even the setting of a budget is on the basis of the Civil Service's best estimates as to what the priorities of the parties were, having taken account of some adjustments and some further changes that have taken place during the year. It does not give power to the Northern Ireland Civil Service, beyond what it is already trying to do, for making political decisions.

You are right. We still have that big challenge of getting the sorts of reforms you have identified to happen. That can only happen in two ways: either through an Executive being formed and a locally elected Government being able to do that; or, in all probability, through some form of UK government decision-making. That is really the choice, and there is no point in me trying to pretend that there is some hidden third way between them. Those are the options that are there.

That does not mean that I do not sit under the duty to continue to consider an election, but, at the end game and in the end situation, you come to a circumstance where you are, in essence, presented with those sorts of choices. That is what we all need to be very clear and focused on, for everything that that means for the institutions that underpin the Belfast agreement and for the overall settlement. In my firm view, UK government decision-making would be a very firm step backwards and not what Northern Ireland needs. If decision-making cannot be provided through the institutions themselves, that might be required.

Q27 Chair: How long do you think it is reasonable for people in Northern Ireland to have to wait for all the things I have described and more, simply to accommodate the shenanigans of Stormont?



James Brokenshire: I am reluctant to move to direct rule because of all the profound implications that has for the overall constitutional settlement. We need to be careful in moving down that route. I would say, if you follow my glide path analogy, setting a budget is a significant step along that glide path. Indeed, in doing that, I would argue that the landing gear starts to come down and the lights of the runway start to become very clear in the hinterland ahead. Therefore, we cannot go on much longer from where we are.

I say that reluctantly. At this stage, I am not going to be specific or prescriptive, because I want to see if we can set that budget and whether there is still the prospect of an Executive being formed. Time is marching on and I am not going to pretend otherwise.

Q28 **Chair:** Are we going to be in the same place in a year's time? Are you going to be back here in 12 months' time?

James Brokenshire: No, I honestly do not think it can be in that sort of timescale. I am not going to be prescriptive, because I want to consider options carefully if we get to the point of having to set a budget. I am very clear about the need for public sector reform, the need for decisions over key projects and programmes. There is a need for political decision-making in Northern Ireland in whatever form. We cannot see this current situation extending for much longer.

Q29 **Conor McGinn: Good to see you, Secretary of State and Jonathan.** Secretary of State, one element of what you have said this morning has concerned me. Three times you have caveated the partnership with the Irish Government on these matters by referring to the third-stranded approach. Would you perhaps clarify for me that your understanding, like mine, of the Good Friday agreement is that the three strands are the structures and the mechanisms through which the institutions work: in Northern Ireland, the Assembly and Executive; the North/South Ministerial Council; and the British-Irish Council?

However, the agreement and the peace process have been a partnership of equals between the Irish and the British Government. It will be your aim, surely, in terms of what further action is taken in relation to the ongoing impasse, that you would be working in tandem with the Irish Government, not in a caveated partnership that is referenced through structures that do not directly concern the co-guarantorship of the Good Friday agreement?

James Brokenshire: We and the Irish Government are both signatories to the Good Friday Belfast agreement. We have been working extremely closely together. I have regular discussions with Simon Coveney, the Irish Foreign Minister, and we have an impetus and a shared endeavour in seeing the institutions back up and running. If we look at the Belfast agreement, and if you take away the institution itself, the Executive and Assembly, it leaves a fundamental gap in that very agreement, something that we believe in so sincerely and so profoundly.



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Therefore, yes, we are working extremely closely with the Irish Government. I spoke to the Irish Foreign Minister earlier this week. The Prime Minister spoke to the Taoiseach earlier this week. She will speak to the Taoiseach again at the European Council meeting where, no doubt, they will have a further update in respect of this. I certainly would not want to give any impression we are not working very, very closely in respect of maintaining pressure, seeking to find solutions and to support the parties to reach a resolution here, because that is profoundly in all of our interests.

- Q30 **Conor McGinn:** Has the relationship become more difficult, strained and complicated since Brexit? Ireland is one of the EU27 and the Government are negotiating with it through Michel Barnier on a whole range of other issues. There is still the bilateral relationship between the UK and Irish Governments on Northern Ireland. How has Brexit and that process affected the relationship?

James Brokenshire: The bilateral engagement remains extraordinarily strong. We have a unique relationship with the Irish Government. That is something that we value hugely, and something we want to see firmly maintained into the future. I reflect on the fact that, last week, there was a meeting with Charlie Flanagan, the Irish Justice Minister, with me, the Home Secretary and David Lidington. We have so many shared issues that we recognise and need to continue to have a strong and enduring partnership together. The indication of that sort of engagement, the regular conversations that I have throughout the week with Simon Coveney and the exchanges between the Prime Minister and the Taoiseach should underline very firmly the depth and nature of the relationships between the two Governments.

- Q31 **Conor McGinn:** The most substantial issue on Brexit in relation to Northern Ireland is of course the border and arrangements post Brexit. Have you had a chance to see this report: *Brexit and the Border Corridor*?

James Brokenshire: I have seen a copy of the report and we are analysing and reflecting on that carefully.

- Q32 **Conor McGinn:** Have you read the report?

James Brokenshire: I have read through some of the report. If you go down to my office, you will see a copy of it on my desk as we speak.

- Q33 **Conor McGinn:** Excellent. This report was commissioned and compiled by the 11 local authorities in the border region. It says very clearly that the simplest solution when it comes to future management of the Irish border is that the UK remains a member of the customs union, either on a permanent basis or on a transitional basis. Is that your view as well?

James Brokenshire: When the UK leaves the European Union, we will be leaving the customs union as one United Kingdom. That has been a consistent approach that we have underlined as a Government. When solutions are being considered, rightfully, as to how we deal with the



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unique circumstances on the island of Ireland, a solution to that is not to create some sort of new border or barrier between Great Britain and Northern Ireland.

- Q34 **Conor McGinn:** Secretary of State, your colleague, Robin Walker, the Under-Secretary in the Brexit Department, spoke to the British-Irish Parliamentary Assembly in Liverpool yesterday, and said that what he and the Government want to see is a comprehensive trade agreement with the European Union. All that I can think, Secretary of State, is that that will look exactly like either the customs union or a caveated single market, and for political reasons, mostly around their own internal party management, the Government are afraid to say that.

These border communities and representatives of the border communities are very clearly saying to you and the UK Government that they want to stay in the single market and the customs union. Surely you acknowledge that that is the easiest way through which to ensure the free movement of people, goods and services on the island of Ireland, which is your and the Government's stated aim. There is no other way to do it, Secretary of State. If there is, you should come forward with proposals.

James Brokenshire: We have come forward with proposals. I appreciate that you may disagree with the approaches that we outlined in the paper published in August on how to deal with issues in relation to customs and the two options set out in the paper, with some of the exemptions and facilitations that were outlined. I have been concerned by some suggestions that somehow Northern Ireland, of itself, should remain in the customs union and the single market, when the rest of the United Kingdom would leave. That is not something that we will contemplate, for constitutional reasons. You also need to look at the trade flows around this. Of course, exports from Northern Ireland to Ireland are important, amounting to around £2.7 billion. When you look at the internal UK market, the goods that flow from Northern Ireland to Great Britain are at around £10.7 billion.

- Q35 **Conor McGinn:** It is not just about trade; it is about people's lives. Have you visited the border? Have you been to see those border communities? Have you walked along the border and gone in and out through communities, schools, parishes, football teams, community organisations?

James Brokenshire: I cannot say I have been along the several hundred miles of the border, but I know it is permeable. I have travelled down to Dublin by car for the meetings I have been to there, and talked to the chamber of commerce in places like Newry. I recognise that some of the issues, north and south, go beyond simply trade. There is a whole raft of issues and we have been discussing with the European Union the need to resolve those too, north and south. It is why we want to get on to the second phase of the negotiations, on the long-term position and the relationship between the United Kingdom and the European Union, obviously including Ireland.



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This first phase is looking at certain aspects of that. Ultimately, we need to get into that second part of the debate and discussions on what customs arrangements would look like, what a bold and ambitious free trade agreement would look like, which is what we want to see, as you have rightly identified. As we leave the European Union, that automatically means that we leave the customs union and the single market.

Q36 Lady Hermon: Secretary of State, if there is no deal between the British Government and the EU about the UK leaving the European Union, what will the border look like between Northern Ireland and the Republic of Ireland?

James Brokenshire: The point to stress at the outset is that I do not believe that that is likely, but we need to be prepared for contingencies.

Q37 Lady Hermon: Do you agree with the Home Secretary that it is “unthinkable” that we have no deal?

James Brokenshire: As to the reason I say it is unlikely, you just need to look at all the statements that have been made by the European Union, by us, by the Irish Government. Everyone has said we want to uphold the Belfast agreement and see that the common travel area is maintained. Therefore, the ability to follow through on that and have an invisible, permeable and frictionless—however you want to describe it—border existing between Northern Ireland and Ireland is a core component. Therefore, I remain positive and optimistic as to what can be achieved.

Q38 Lady Hermon: It is very good of you to be positive and optimistic about what can be achieved, but can I repeat my question? What would a border between Northern Ireland and the Republic look like if the British Government did not do a deal with the EU?

James Brokenshire: That is not something that we want to contemplate or, I believe, is likely in terms of where we may end up because of that positive spirit. Of course, we have to be prepared for a no deal scenario. I would point to the fact that, on the common travel area, the EU itself has acknowledged and accepted its status within EU law. It is important to make that point. Therefore, the common travel area, because we and the Irish are outside of Schengen, can be maintained. While we are looking at the objectives and taking through certain other aspects of that, I believe firmly that the common travel area can be maintained. We would see that as a clear outcome throughout anything.

Do you know what? The EU, including the Irish Government and us, come what may, will want to see a positive outcome on the island of Ireland. That is all I would caveat on this. Whatever the circumstances may be, I firmly believe that is an outcome that everyone wants to get, come what may. That is why, while we can play the different scenarios



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here, when you take that step back, whatever outcome we look at, I believe there will be a solution in relation to Ireland.

- Q39 **Lady Hermon:** You will be aware that the Chancellor gave evidence this time last week to the Treasury Committee, in which he said Brexit cameras along the border would be legitimate targets for those who did not want or did not recognise any border along the island of Ireland. Do you agree that those cameras, which are going to look at vehicle registration recognition, will become legitimate targets, even if we do a deal? Do you agree?

James Brokenshire: That assumes that there would be infrastructure at the border, which I do not accept. There was a hypothetical point being made to the Chancellor. That is not the objective of the UK Government through this. We have said very firmly in the paper, and the European Union itself has underlined, that there should be no physical infrastructure border. Why? It is because of the experiences of the past, where those customs posts were attacked and subject to regular threats during the Troubles. I do not see that the solution is having "cameras at the border". When we look at technology, that is about how we create systems for filing of customs declarations, and how we have better processes and systems to support that, rather than suggesting there would be some sort of physical infrastructure at the border. I do not see that as an outcome anybody should be seeking to approach.

- Q40 **Lady Hermon:** We are ruling out any physical infrastructure. Is that ruling out cameras as well?

James Brokenshire: Yes.

Lady Hermon: Thank you. That is very clear indeed. I am astonished, but it is very clear.

- Q41 **Chair:** Can I push you on that, Secretary of State? The tariffs we are talking about are European Union tariffs, as much as potential UK tariffs. The European Union, wishing to guarantee its customs union, may take a slightly different view of these matters. It is something that is only partially in our control. What sorts of discussions have you had with the European Union, since the impression that is being given at the moment is that Brussels does not fully understand the security implications of this potentially hard border?

James Brokenshire: I think Brussels does understand, in all fairness. Michel Barnier has had some background in the affairs of the island of Ireland in the past. There is a genuine desire to see that an appropriate arrangement is agreed for the island of Ireland, both for Northern Ireland and for Ireland.

It is why the European Union in the paper it published equally recognised this issue of physical infrastructure, physical issues at the border and that sense of underlining where the border is, which you simply cannot see as we sit here today. There is a recognition of this, which is why the



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European Union has continued to provide funding on the Peace Fund, something that we have said in our own paper we would like to see continued into the future too, along with discussions around it. It is important that we put this in context. I have been out to Brussels in the last few months.

I intend to travel again in the coming weeks to make some of these points directly, to affirm the special circumstances that exist on the island of Ireland and the need to find the optimum outcome that deals with all the issues that need to be responded to. I hope that gives some sense of the direct engagement that the negotiating team has had with its counterparts in Brussels, underlining the important points that came through from our paper and, I would acknowledge, were reflected in the EU's paper.

- Q42 **Kate Hoey:** Can I welcome your optimism on the border? That will be seen very positively by people. Can I also welcome you saying very clearly that the United Kingdom will leave the customs union and the single market as a whole and that Northern Ireland will not be different, as part of the United Kingdom? Does it concern you that there seems to be so little understanding of the fact that the common travel area has existed for a very long time and the issue will not change when we leave the European Union?

James Brokenshire: The common travel area has served both the UK and Ireland well over many, many decades, going back to the 1920s, as you well know. It is an arrangement that has been recognised and understood already under EU law, and we have been upfront, as have the Irish, about wanting to see that maintained into the future. That is a core objective for all of us.

- Q43 **Nigel Mills:** On the matter of the border, have you seen any suggested special solution for Northern Ireland that you think could work in the absence of an all-encompassing, broad free trade deal?

James Brokenshire: The points that we have made in the paper set out some of the options and arrangements that I think should be advanced. We want to get into the discussions around those. We have said that there is a need for flexible and open-minded thinking. Indeed, the EU, in the paper where it sets out the negotiating mandate, says that that is required. The paper points to various different facilitations and the issue of what might be regarded as trusted trader arrangements, which is of real benefit here. We identify how most of the "trade" in international terms is about small businesses operating in local markets. Therefore, how should we respond to the 80% that, we argue, falls within that basket?

It is about getting into the detail of those discussions and, from Treasury and HMRC's perspective, the build that they are doing around the new system for customs filings and declarations, which is due to be completed in January 2019. I would point to a number of those different elements



that support work around the border, ensuring it is smooth and free-flowing, the way we would anticipate it being.

- Q44 **Nigel Mills:** Do you see those as a build-on improvement to a comprehensive free trade deal and customs arrangement? Could you see a situation where there were significant tariffs on exports of food both ways across the border, yet neither side collecting those under some small business exemption? There is no precedent for that anywhere in the EU, or probably in most the world. I wonder if everyone's focus on this should be on achieving the right free trade and customs deals. Every time we wander off into some alley of alternative, creative solutions, we lose the focus on reality. The real thing that fixes this issue is a free trade deal and a customs arrangement.

James Brokenshire: You are right. That is at the core of this, which is why we want to get on to the second phase of the discussions on this: to see that bold and ambitious free trade agreement and arrangements in respect of flexible customs arrangements or a customs partnership, which is the other model we have advanced in the papers published over the summer. The point is that we need to get into that discussion. That is why we want to get through this first phase and get into it.

It is in the best interests of the European Union, of Ireland in particular, and in ours to ensure that solution is discussed, so we have time to put the implementation into place that would need to sit around that, on law, systems and processes, so businesses can adjust to that. That is why we have set out the proposal for the two-year implementation period. That is what the focus of debate and discussions needs to get into. We want to do that because there is benefit for everyone in so doing. I hope that we will be able to see that progress quickly and get on with what is at the heart of this, which is the enduring relationship between the United Kingdom and the European Union, following on from our departure.

- Q45 **Maria Caulfield:** Given the significant seriousness of what you have said to us today, are there plans to make a statement to the House? If there is a possibility of primary legislation being required, that will need the consent of the whole House. Are there plans to have regular statements to the House on what you have said this morning?

James Brokenshire: I have sought to give the Committee this morning as clear a picture and position as I can of where things currently stand, in respect to the overall time periods we are working within. I am very conscious of my duties to the House, in keeping the House informed and updated. Given what I have said to the Committee this morning, it would certainly be my expectation to keep the House as a whole updated, through statements or other means, to ensure there is that sense of whether we are heading down one or another track. We are getting to a point of some significant decisions being made. I am very clear on my obligations to the House, in keeping the whole House informed and updated.



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Q46 Maria Caulfield: Can I turn to the DUP deal? There is much discussion about the figure of £1 billion that will go to the people of Northern Ireland. There has been some agreement on how that money will be spent in terms of infrastructure and investing it in health. While there is not a Northern Ireland Executive, what are the plans for how that money will be spent?

James Brokenshire: At the moment, there has been no detailed planning around that. You will know the headline figures that are reflected in there on some of the genuine needs that the whole of Northern Ireland has around health, mental health in particular, some of the structural issues that are there and the lack of investment in infrastructure in many different ways. This benefits everyone; it is not one community or the other community. It is to the benefit of the whole of Northern Ireland. In the absence of an Executive, work has not been advanced around those aspects. That is why I earnestly want to see an Executive there that is best placed to take that work forward.

Q47 Maria Caulfield: Currently, the money has not been given to Northern Ireland as such. What is the process? Promises have been made, but people are starting to become a bit sceptical about when that money will arrive. If there is not a Northern Ireland Executive, will the UK Government be tasked with spending that money? Will it be part of the budget-setting process you have outlined?

James Brokenshire: Let me deal with the process issue. The budget that I have spoken about can only be in respect of the appropriations that were set earlier this year. Further or additional funding has to come through the normal estimates process: a further estimate that would need to be put before the House and then approved for funds to be transferred to the Northern Ireland Executive. That remains able to be done. From a technical perspective, that explains how the process would need to work, because Parliament ultimately has to approve the provision of funds to the Northern Ireland Executive and Northern Ireland Assembly.

As you will know, funds were made available or indicated as being for an incoming Executive. I would say to the Committee that, in making the statements we did, set out in the manner that they were, we firmly recognised the specific and particular needs that Northern Ireland has. I look at the fact that employment rates have improved significantly, but they still lag behind Wales, Scotland and England. I look at the lack of investment in some of the road infrastructure and other issues around the digital environment. There has been a case made firmly about some of the needs that Northern Ireland has, albeit that we have said that this is for an incoming Executive. If that were not possible, we would need to examine how best those needs and pressures could be advanced.

Q48 Maria Caulfield: Is the £1 billion that has been promised likely to be agreed in the estimates next year, or are we looking at the end of the parliamentary cycle?



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James Brokenshire: That is a live issue, depending on whether an Executive has been formed or not. Therefore, estimates need to be brought forward in an appropriate way, given that there are immediate pressures now. We know and recognise that. Further clarity will need to be given in respect of that, once we know where we are and whether an Executive is likely to be formed within the short period of time that I have indicated. I hear that message and hear very firmly the pressures that there are within Northern Ireland at the moment.

Q49 **Maria Caulfield:** As a final question, if there were to be a change of government within a five-year period, before 2022, that estimate process had not been started and there had not been an Executive formed, what would happen to the £1 billion that has been promised to the people of Northern Ireland?

James Brokenshire: A political agreement has been reached between the Conservative Party and the Democratic Unionist Party for the duration of this Parliament. All funds that are made available to any devolved Administration have to be put through the annual estimates and budgeting process. I am not contemplating anything other than a full five-year term for this Parliament. Therefore, everyone should have confidence in the intent of this Government to stand behind the political commitments they have made.

Q50 **Conor McGinn:** That is even less likely than a frictionless border, Secretary of State.

James Brokenshire: You may say that. I profoundly do not agree with you, and you might expect me to take a contrary view.

Mr Campbell: The money will be spent one way or the other.

Q51 **Lady Hermon:** Secretary of State, this is directed to Sir Jonathan, with the greatest of respect, because Sir Jonathan chairs the implementation committee for the recommendations made by Lady Justice Hallett in the John Downey case and the comfort letters that we were horrified to discover. How far are we down the list of recommendations that Lady Justice Hallett made in her July report of 2014, three years ago? We should have implemented them all by now.

Sir Jonathan Stephens: All the recommendations are implemented or in the course of being implemented, because, as you know, some of the recommendations called for the PSNI to undertake a review, particularly of the priority cases that Lady Justice Hallett indicated. That review, Operation Redfield, continues. All the other recommendations have been implemented.

Q52 **Lady Hermon:** How far down the list of cases is the PSNI? How many has it reviewed? What percentage of cases has it reviewed—half of them, three-quarters of them?

Sir Jonathan Stephens: I am very happy to ask the PSNI to send you its latest statistics. As we have discussed before, it considers alleged



incidents that may be associated with individuals. Some 36 individuals were identified by Lady Justice Hallett for priority review. The PSNI has added a very small number, about four, of extra priority cases to that.

Q53 Lady Hermon: Has it gone through all 36 priority cases?

Sir Jonathan Stephens: It has not completed in respect of all those priority individuals. It has undertaken a large number of reviews of incidents that are potentially associated with those individuals. It has identified more reviews to be undertaken in respect of that. Of the reviews that it thinks it needs to undertake, something like 60% have been completed in respect of those priority individuals.

Q54 Lady Hermon: Has it found any errors in those cases? John Downey was obviously an error: a significant and deeply worrying error.

Sir Jonathan Stephens: Yes, indeed. The purpose of these reviews is to identify any evidential opportunities that need to be followed up. That is the purpose of the review. I am not in a position to say whether evidential opportunities have been identified because, if those are, the police would be following those up.

Q55 Lady Hermon: Could you update the Committee in a paper subsequent to this meeting? It would be very helpful.

Sir Jonathan Stephens: I should be clear that these reviews are being conducted by the PSNI. I am happy to invite the PSNI to provide the statistics that it provided to our board.

Lady Hermon: You will have to forgive me but, since you chair the implementation committee, I had assumed you would have all these facts and figures at your fingertips.

Chair: I would be grateful for any note you are able to pass us, Sir Jonathan. We will have an opportunity to quiz the PSNI next week in committee.

Q56 Jack Lopresti: Secretary of State, good to see you and welcome. You and I had many a long discussion and the occasional meeting in the last Parliament about the legacy issue of the persecution, in my view, of former service-people who served in Northern Ireland. Can you update the Committee on any work that has taken place on this issue since the general election?

James Brokenshire: Yes. As you know, the Government set out their continued commitments to the Stormont House legacy institutions, the balanced, fair and proportionate system that was set out in that agreement and what flows from it. We have continued to work on the potential implementation of Stormont House. The next step is to launch a public consultation around that, so that everyone can see how Stormont House can be implemented and pass comment in an open way.



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That is, rightfully, the next step that should be conducted. We are very close to being able to do that. I wanted to wait to see where we had got to in Executive formation. The strongest possible position would be for me to launch that consultation off the back of a new Executive coming in, and that is part of the advancement of all work in relation to legacy, as it is termed, the investigations or work that is connected with the issues of the past.

That remains the best way forward in terms of where Stormont House is. The current system is frankly not working for anybody, given the frustrations of victims and survivors, as well as those who are concerned about investigation and where it may head. There is a lot of detail wrapped up into this, with the legal obligations that we as a Government are under. It should be a system that rightfully and proportionately reflects that 90% of those killed were killed at the hands of terrorists, and not by the hands of the state or those who were upholding the rule of law.

I would characterise it in those terms. Therefore, we need to find a way to get on with this. It is three years since Stormont House was concluded. There is an expectation that we move forward with this and a broad consensus, highlighted at Stormont House, that, while this has been in a political frame thus far, it is important that we take the community and everyone with us, in order to move forward with legislation. I would see that as the next step.

I want to engage with the Committee around this too. That is important as part of this work, to see that the period of consultation is not rushed, but properly engages with all interested groups, so we can positively move forward on what I know remains a very sensitive issue on so many different levels.

Q57 Jack Lopresti: I have read some pretty lurid reports this week about a disagreement between you and the Secretary of State for Defence on the form that a Bill would take. They say that you want part of the Bill taken out so that cases can be reopened, and the Secretary of State for Defence wants legislation to be inserted that would prevent authorities launching inquiries. Would you like to comment on that?

James Brokenshire: I do not recognise those reports. I am working very closely with all members of the Cabinet, the Defence Secretary as well as others, to ensure that we bring forward a detailed consultation. I would expect it to have a draft Bill attached to it, so people can see in all detail what this means and how it would be interpreted, providing an opportunity to further improve it in terms of the details contained within there. The best thing I can say is that we are all agreed on the fact that the current system is not working as it should do and there is a need to see change brought about.

We have been working very closely with all the parties in Northern Ireland around this to get to this point, knowing some of the challenges



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and pressures that have existed around this in the past. I am determined that we will find a way forward, because this continues to be a significant issue in Northern Ireland, with tensions across communities, as well as those concerns that have been expressed by those who served. I am absolutely clear that the vast majority did so with utter distinction and we would not enjoy the freedoms we have today if it were not for their service, bravery and dedication.

Q58 Jack Lopresti: If we found ourselves in a situation where we had to return to direct rule from Westminster, would that hinder or help this process of passing legislation that would hopefully stop the persecution, in my mind, of our former service-people?

James Brokenshire: I want this to lead to a conclusion. I want this to lead to legislation. That is why I want the consultation to be positive in underlining the challenges that we see today in a system that is not fit for purpose, so we can move forward with the Stormont House legacy institutions and get them right. There is broad political consensus around that. This needs to move forward. I still earnestly want to see that in a space where there is broad political agreement, with institutions in place and an Assembly that can engage with this process. It is important that the political side of this in Northern Ireland has the means to do so.

As I have said to some of the victims and survivors' groups in Northern Ireland, the real pain and hurt that remain there among so many families and communities is not something that can be pushed off, pushed off and pushed off, for all the reasons I have identified. We need to get on with taking that next step and surfacing the huge amount of work that has gone on over an extended period, so we can start to make progress here.

Q59 Conor McGinn: Secretary of State, this is an extraordinarily complicated and very sensitive issue. In my own constituency in St Helens, I have a very strong armed forces community. I engage a lot with veterans and former service personnel. They have strong views on this. Last week, a group of RUC and PSNI widows and parents visited London. The sense of hurt, grief and injustice those people feel is unspeakable and unbearable.

To put it in some context, you answered a parliamentary question I asked in January, saying you knew of three cases in which former armed service personnel had prosecutions raised against them. In contrast, 23 cases were passed to the Crown Prosecution Service around Hillsborough and after the findings of the Hillsborough inquiry, including retired police officers. The Government would not countenance for a minute giving immunity to those police officers who were referred for prosecution over Hillsborough.

Can you rule out today any question of immunity or statute of limitations for members of the armed forces and police officers who either served in Operation Banner or were in service during the course of the Troubles? You cannot defend the rule of law by defending those who break the rule of law.



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James Brokenshire: You make a very powerful point around the rule of law and those who serve to uphold it. It has not been the policy of this Government to uphold amnesties. Indeed, it goes further than that: amnesties have not been viewed as acceptable across communities in Northern Ireland. We only need to look back to the various reports, published over decades, about how to try to resolve this in an acceptable way.

Amnesty was proposed before and was firmly rejected. The policy of the Government is Stormont House. It is advancing those legacy institutions and bringing about the sequential investigation of all cases. As I have said, 90% of those are about the investigation of those who were terrorists, those who were not actors of the state, via the police or the armed forces. It is about a balanced, fair and proportionate system, which Stormont House underpins. I firmly believe that remains the best way forward. Nothing is perfect, simple or easy here. I am not going to try to pretend that it is. Mr McGinn, you well know from your own experience, both in your constituency now and in Northern Ireland, the real pain and hurt on all sides. We have to find a way through. The right next step is to surface this in a public way, so people can see this for what it can be. I hope that will enable us to move forward.

Q60 **Conor McGinn:** To clarify, there is no question on the Government's part of their seeking to block inquiries or inquests into actions of the state either directly or by proxy, and there will be no question of immunity or any statute of limitations.

James Brokenshire: It is interesting. You rightly point to the fact that Stormont House deals with certain aspects of this, but I am equally conscious of the Lord Chief Justice's reforms and the need to see that those are advanced in parallel. It was why in my own party's manifesto earlier this year we underlined that sense of progress around Stormont House and in respect of the reforms of the coroner system and the inquest process, where I know there are a number of cases.

I want to see progress on all fronts to enable that work to be advanced. That is the only real long-term sustainable way we may finally see Northern Ireland able to look to the future rather than, sadly, continually looking to the past. I hope that, by means of that consultation, yes, people will be able to express their views. I am sure they will express them in different ways, but the approach that we believe remains the right one is Stormont House, with that balanced, fair and proportionate investigation where, frankly, the large bulk of this work will be about family reports.

It will be about trying to provide some information and detail that families have been looking for, for many decades now. Yes, there is still the criminal investigatory aspect of this, but that would need to satisfy a number of different tests in order to progress through. It is worth waiting to see that detail, and then we can have a detailed and meaningful discussion and debate around the next steps.



Q61 **Chair:** Secretary of State, would you agree with me that it was, with hindsight, a mistake, with the PSNI, to write to people who had served in Operation Banner, clearly elderly people, with an invitation that they might wish to unburden themselves with the details of things that happened all those years ago? That might have caused some upset to them, and perhaps in the future these things can be helped along a little more sensitively than they were on that occasion.

James Brokenshire: You will no doubt be able to ask the chief constable directly over these points when you take evidence next week.

Q62 **Chair:** Your department co-operated with it. That is why I am asking you.

James Brokenshire: There are certain legal duties that the PSNI is under, under Article 2 of the European Convention on Human Rights, and other legal requirements. The steps that the PSNI took on that were to seek to meet certain requirements that it was placed under, under law. We can always reflect on how to do things as appropriately and as sensitively as possible, recognising the impact that certain steps can have. This is and will remain a difficult and sensitive issue. I am in no doubt about that. The important thing is that we are able to move on with this.

Q63 **Bob Stewart:** It is nice to be back on the Committee. Is it that 90% of the killings were of terrorism origin? Are 90% of the investigations by the PSNI against terrorist incidents and only one in 10 against former members of the security forces, be they RUC or military?

James Brokenshire: At the moment, in terms of the work of the legacy investigation branch of the PSNI, my understanding is that that is not the overall balance. The PSNI will follow whatever evidence or investigatory approaches it may take. It is operationally independent. It is not in that type of order. It is that sense of how we move towards a system that recognises the overall proportionality, the balance and the framework we sit within. Even if you take that 90%/10% approach, that assumes that all of that 10% was unlawful when, even within that, the actions of the vast majority of those who served were with utter distinction.

Q64 **Bob Stewart:** It is the perception, frankly, for our ex-servicemen and ex-policemen that they are being unfairly investigated. I understand the logic, but you have already accepted there is an imbalance. That imbalance feeds that perception. I understand your situation. I will not press the point any more.

As a final question, when your aeroplane lands, its wheels having come down, and we have direct rule—we do not now, but if we do—how difficult will it be for us to reverse it?

James Brokenshire: As you rightly say, Mr Stewart, that is not something I want to contemplate and it can still be avoided. Do you know what? Part of that is because of the experience of the past. The experience of the past has been that, if you go into some situation like



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direct rule, where the UK Government are making decisions, it is relatively straightforward to get into it, to pass legislation to do that, to set up the systems and all that sort of stuff. It is very, very hard to then get out of it, which is why I am acting with circumspection and a clear and determined head to seek to avoid that. We will always act in the best interests of Northern Ireland. The point you make is very important, very significant and it is why all our efforts and focus must be on getting an Executive back into place.

Q65 Chair: With respect, Secretary of State, it is important to focus too on the recovery phase, because you are very frankly suggesting to the Committee today, for which we are very grateful, that we are on a flight path. That flight path will ultimately come to a destination that we will have to pick ourselves out of.

It would be a great pity if early preparatory work was not being done on how we can look at the institutions and make them a little more robust to prevent this kind of thing from happening again, since we cannot lurch from crisis to crisis. As I said in my remarks, the people who will have to pick up the tab are people living in Northern Ireland who have to put up with second-rate Governments, bluntly. What are we doing now to ensure that, in the event that we go to direct rule or something that is rhetorically similar to that, we are then able to re-establish the institutions in relatively short order?

James Brokenshire: It would be wrong of me at this stage to speculate on that type of scenario. I would say very firmly to the Committee, though, that all our actions are about seeking the restoration of devolved government at the earliest possible opportunity. I believe in devolution and I believe the only long-term solution for Northern Ireland is devolution. That is why we set up the institutions in the past, and why the Belfast Good Friday agreement is the absolute bedrock and framework of the political situation we see in Northern Ireland.

Therefore, devolution remains the only way forward, in my judgment. It is about what we can do in the time ahead of us to get agreement, to avoid having to take any further steps. Ultimately, it is the continuation of that work to see that devolution is not just returned, but has solid foundations and can endure, develop and mature into the future, with that fundamental principle of local democracy, shared community and focus that is at the forefront of all of our minds.

Q66 Nigel Mills: For the last three years, whenever a Secretary of State has come, I have asked about transparency of political donations. I know you made a very welcome announcement in July. Can you give us an update on progress on that and when we might see some public donations?

James Brokenshire: I recognise the desire for legislation to be passed and for Northern Ireland donations and loans to be published. The order is at an advanced stage of drafting. I hope to be able to lay the order



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before Parliament very soon. That is the work that we are focused on and engaged in, to finalise the order and enable it to be brought forward as soon as we are able to.

Q67 Nigel Mills: Would that come into force before any election that you might be minded to call at some point in the future?

James Brokenshire: I have said that the proposed secondary legislation would give effect to full transparency of donations and loans received on or after 1 July of this year, following the consultation that I conducted earlier this year. That is the approach that we are taking to the advancement of that legislation and we continue to finalise the order, to bring that forward as soon as we are able.

Q68 Nigel Mills: The 2014 Act made clear that any donations from then on could at some point be made public, even though they would not be in real time. Are you minded yet to publish donations from after that or to require publications of those donations?

James Brokenshire: I move forward on the basis of the consultation that I carried out at the start of the year. I wrote to all the political parties in Northern Ireland. I asked a specific question over timing. There was broad support for moving to transparency. I think it was only the Alliance Party that proposed backdating publication to 1 January 2014 at that time. That is the reason I have proceeded on the basis I have done and made the statements that I have. I believe the right thing to do is take the point I announced on 1 July 2017 and move forward on that basis.

Q69 Kate Hoey: This Committee produced I think an excellent report on Libya and the Semtex issue, to which I am afraid we did not get a very satisfactory response from Government. Could I ask if Lord Empey's private Member's Bill in the House of Lords is being supported by the Government on the asset freezing aspect of the Libyan issue?

James Brokenshire: At the outset, I will say that we want to see a just solution for all the victims of Gaddafi-sponsored IRA terrorism. I recognise the firm response that this Committee gave and the continuing understandable desire for families and those who have lost loved ones to find some way of obtaining appropriate recompense for their loss.

What I can update the Committee on is that the Foreign Office takes the lead. The Foreign Secretary and his colleague Alistair Burt met with a group of victims and parliamentarians to discuss key concerns. I know that both of them reiterated the Government's commitment to supporting victims in their campaign to seek redress from the Libyan authorities. The Foreign Secretary has committed to write to parliamentarians summarising the meeting and clarifying specific follow-up questions. This letter will also set out a view on the viability of obtaining agreement to seize assets after they are unfrozen via the UN Security Council.



Alistair Burt has similarly agreed to write to victims to clarify the status of Gaddafi's personal assets frozen in the UK and follow up on the idea of a potential meeting with the Libyan Minister of Justice. The Foreign Office has continued to encourage the Libyan authorities around this. I know the Foreign Secretary raised the issue again with Prime Minister Sarraj during his visit to Tripoli in August. We know that the political and security circumstances in Libya mean that progress has been unfortunately slow. The Foreign Secretary and Alistair Burt will be writing out. It is probably best that I let them set out the position and the consideration they have been giving, in light of which you and others no doubt will want to consider further.

Q70 Chair: Secretary of State and Sir Jonathan, thank you so much for your time today. I think you have been extremely open with us. The Semtex issue is an interesting one to finish up on, because this Committee has taken an ongoing interest in it, since we are certainly not happy with the response that we have been given. We believe much further progress can be made on this. We may return to that with you at a future date.

We are particularly grateful for you coming today. This Committee views itself as being of particular importance at the moment, given the vacuum that exists in Northern Ireland in democratic terms. I am sure you have approached today in that light. In that respect, we are terribly grateful to you for being so open and candid with us. We look forward to seeing you back before us, before too very long.

James Brokenshire: Thank you very much and, as I said at the outset, I wish the Committee well with its deliberations during the course of this Parliament.