

Northern Ireland Affairs Committee

Oral evidence: [Work of the Secretary of State for Northern Ireland, 2017-19](#), HC 498

Wednesday 4 July 2018

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Members present: Dr Andrew Murrison (Chair); Mr Gregory Campbell; Mr Robert Goodwill; John Grogan; Lady Hermon; Kate Hoey; Nigel Mills; Ian Paisley; Jim Shannon.

Questions 180 - 323

Witnesses

I: Rt Hon. Karen Bradley MP, Secretary of State for Northern Ireland; Colin Perry, Director of Change, Economy and Legacy, Northern Ireland Office; Chris Flatt, Deputy Director, Legacy Group, Northern Ireland Office.

Examination of Witnesses

Witnesses: Rt Hon. Karen Bradley MP, Colin Perry and Chris Flatt.

Q180 **Chair:** Good morning, Secretary of State. It is wonderful to see you on this beautiful morning.

Karen Bradley: Yes, with the blinds down it is lovely.

Chair: We have a lot to get through so we are going to crack on with the questions, but I wonder if we could perhaps kick off with a brief situation report on where we are with the Executive.

Karen Bradley: Thank you very much, Mr Chair, and thank you, Committee. As you all know, it has now been 18 months since we had an Executive functioning in Northern Ireland. We had talks at the beginning of the year; I have been to the Committee since the end of those talks and, as you know, those talks ended without agreement. It is extremely frustrating that we are still in a position where parties are clearly keen and willing to come into government, but due to differences, preconditions, et cetera, we have not been able to re-establish a meaningful talks process or dialogue at the leadership level.

I continue to speak very regularly with the leaders of all the main parties. I share the frustrations. It is clear to me that there is no alternative that is sustainable for Northern Ireland except for returning devolved Government to Stormont. That is the best thing for Northern Ireland and the best thing for the Union, actually. As a unionist, I want to see a functioning Northern Ireland as part of the United Kingdom with decisions being taken at the devolved level, giving business, communities, local councils and others the stability that they need.

We are not in a position at the moment where talks are happening. I continue to press the case to get the parties back into some form of dialogue, and we are looking at the alternative ways we might re-engage parties to get trust re-established, because the big problem is that the trust between the parties is simply not there at the moment.

Q181 **Chair:** That is a fairly downbeat assessment, if I may say so, of the immediate future.

Karen Bradley: I think I am being realistic, Mr Chair.

Chair: I appreciate that.

Karen Bradley: I do not want to say to the Committee that I believe that next week everyone will get back round the table and we will find that we have functioning Government in Stormont within weeks. I have to be realistic with the Committee, given the time of year and the situation in terms of the levels of trust between the parties, that we are not at that point at the moment, but we continue to work towards



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re-establishing that trust and removing those barriers to devolution. My four objectives as UK Government are: first of all, our commitment to the Belfast agreement and all that it stands for; secondly, our commitments to fulfilling our obligations as UK Government in the Belfast agreement; thirdly, to ensuring there is good governance of Northern Ireland; but to removing those barriers to devolution. That is what I work towards.

Q182 Chair: As informed observers, we would share your assessment of that, which leads us on to what we now do—or what you now do—in relation to good governance in Northern Ireland. If we assume that there is no immediate prospect for the restoration of the institutions, the great big long list that we provided in our report on this matter is going to get longer and longer and longer, and could be made more acute if the Mallusk determination, for example, is made and it is unfavourable. What is your plan?

Karen Bradley: We are working on all contingencies. We are looking at what may come out from the various appeals to various court cases that we have at the moment, but you are right, Mr Chair, that the longer this goes on, the more cases there are, and the lack of a talks process of any form makes it harder and harder to sustain the delivery of public services and decision-making that needs to be taken. We will take decisions that need to be taken in Westminster as we need to take them, but I am extraordinarily reluctant to move towards a situation where we give up on the institutions set up by the Belfast agreement and decide that they are no longer fit for purpose.

Q183 Chair: Nobody is talking about giving up on them. We are absolutely not giving up on them, but the trouble is that decisions that should be made are not being made in Northern Ireland at the moment and, with every week that goes by, that list becomes longer and longer. It has a real impact on the lives of the people of Northern Ireland.

At some point, a decision will have to be made as to what we do on, for example, planning for an incinerator, which would seem to be a fairly low-order decision that should be made elsewhere. You should not be making it, but somebody needs to make that decision. This is the question I have for you, really: when are we going to reach that point?

Karen Bradley: We are very much in the hands of the courts at the moment. We are in an uncertain period where we do not know what the courts will find from the appeal. We know what was said at the appeal and the comments that were made at that point, but until we get that judgment we cannot pre-empt or pre-judge what the judgment may find. We are preparing for all eventualities and making sure that we have in place contingency plans so that we can ensure that decisions are taken. It is as frustrating for us as it is, I am sure, for you. I am very grateful to the Committee for your inquiries in these matters, and we do look carefully at all the suggestions and recommendations made by the Committee.



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Q184 **Chair:** The trouble is that, for the ordinary man or woman in Northern Ireland, they look at Government and they see that the lights are on but there is nobody home, bluntly, because decisions are not being made. They see that it is affecting their lives. I am sure you would accept that that simply is not acceptable, especially since, as you have said and we have agreed, there is very little prospect of the restoration of the institutions in Northern Ireland in the foreseeable future.

Karen Bradley: I do not say “not in the foreseeable future”, although certainly not in the immediate future, but I agree. I am as frustrated as everybody else. I have been very frank with the Committee about this. I can well understand why it is that the man or woman on the street in Northern Ireland says, “I do not understand. We do not have Ministers, but there is a Minister in Whitehall and a Secretary of State for Northern Ireland. Why are they not taking decisions?” In order for me to have executive powers, we would have to suspend the institutions set up under the Belfast agreement and legislate to do that in Westminster, and I do not want to take that step because I do not want to give up on those institutions while there is still a possibility and a desire.

I am absolutely certain that there is a desire from the parties in Northern Ireland to get back into devolved government. We need to remove those barriers to devolution and re-establish trust between the main parties so that they can get back into government, and I do not believe that the right thing to do is to just give up on that and move into a position where we are taking a very, very different and potentially extreme approach.

For example, I speak to businesses, and we have great success stories in Northern Ireland on the economy. I opened the new Allstate headquarters in Belfast last week. From a starting point of 50 jobs that Allstate put into Northern Ireland 20 years ago, there are now 2,200 jobs; there is a £30 million new building. When I talk to the business leaders there and the management of that, they do not want to see the suspension of the institutions from the Belfast agreement because for them “sustainable” and “Government” is in Stormont. It is not in Westminster.

Q185 **Chair:** Absolutely. I would like to move on to an area where you are going to have to take some action fairly quickly. You will have been delighted, as everybody has been, by the appointment of Drew Harris to An Garda Síochána. It is an historic moment for policing in the island of Ireland, but of course it presents the Chief Constable with yet another problem because at the moment six of the nine in his senior team are in temporary appointments. In any organisation, that is extraordinarily bad and not sustainable. This is the question I have for you: what are you going to do about that?

Karen Bradley: There is an issue on appointments across the board. Without Ministers, appointments to arms-length bodies that would be made by Ministers cannot be made. That is, again, one of the problems of not having devolved Government in Stormont.



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I said at oral questions two weeks ago that I would be coming forward to Parliament before the Summer Recess with a plan of how we will address this matter. I am very aware that we need to make sure that the Policing Board is properly constituted and that appointments have been made. We also need to make sure that that is true for the Judicial Appointments Commission. We also have issues with some of the UK-wide appointments that need to have approval from a Northern Ireland Minister and simply cannot be done without one in place.

I am looking at the ways we might do this. There are simple ways, which are all-encompassing pieces of legislation. The difficulty there is how doing that might impact on issues within the Belfast agreement that are strand 1 versus strand 3: "At what point does this become devolved rather than a matter for Westminster?" There are also difficulties with legislation that can be amended, in that people perhaps try to use that legislation to put forward their own personal issues that they wish to address in Northern Ireland, some of which, without being in Northern Ireland or being a Northern Ireland elected representative, they perhaps do not understand the sensitivities around.

Q186 **Chair:** The immediate issue here is the Policing Board, is it not?

Karen Bradley: Of course.

Q187 **Chair:** Will the proposals that you have alluded to include a way of dealing with the Policing Board so the Policing Board can approve the appointments that are currently temporary?

Karen Bradley: My apologies if I was not clear enough: I am absolutely going to address the issue of the Policing Board, but I am looking at whether I need to do that on a standalone basis or do some piece of legislation that enables us to do further appointments in the future, with all the implications that that has for Northern Ireland and the relationship with Westminster, and the situations and agreements that we have under the Belfast agreement.

Q188 **Chair:** When would you anticipate a functioning Policing Board being up and running?

Karen Bradley: I will be making a statement to inform Parliament before the Summer Recess of exactly what we are proposing to do and I will make sure that you, Mr Chair, are fully apprised of our plans in that area.

Q189 **Chair:** Thank you very much. Can I turn briefly to some of the evidence given by the Chief Constable last week, which I know you have seen? You have also seen the paper that he produced, dated 29 June, that deals with the concerns he has in relation to Brexit.

George Hamilton, whom I have known for a number of years, is not a man given to hyperbole, but I am sure that you were as alarmed as I was by what he had to say last week. I would be interested in your views on the evidence that he has given, particularly in relation to his position—as



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he describes it—being an “orphan” when it comes to preparations for Brexit. He cited in particular that HMRC and Border Force have between them a total of 6,000 new officials and officers to deal with this, and he told us that he had the resources for an extra two or three to do preparatory work for this thing.

He is clearly in a very difficult position now, as a senior public official, in trying to resource the various scenarios he has set out in his paper, yet he gave clear evidence to us that he was getting very little support from those he would ordinarily expect to get support from, which worried us and, I am very sure, worries you. I would like to know what you are going to do about that.

Karen Bradley: I have spoken to the Chief Constable on a number of occasions about these concerns. The figures that you state for HMRC and Border Force are, of course, across the whole of the United Kingdom. These are reserved matters and they are therefore resources that will cover the whole of the UK. Obviously the Chief Constable of PSNI is concerned about Northern Ireland. We have had a number of conversations and have spoken on a number of occasions this week, including this morning. I have seen his letter as well and have been making sure that we speak to both the Department for Exiting the European Union and the Home Office, which have overall responsibility for the two policy areas that he cites.

Much of what he has said in that letter is speculative, based on not knowing what the future relationship that we want to have with the European Union will look like, and I have assured him that that is a matter we will be discussing at Cabinet on Friday and that he will have much more certainty when he sees the White Paper, so much of his uncertainty will be resolved.

On the specific requests he has made in that, we are making sure that he has appropriate people to liaise with in both the Home Office and the Department for Exiting the European Union, and we speak to him on a very regular basis.

Q190 **Chair:** That is an innovation, is it? He is quite clear in posing the rhetorical question that he puts at paragraph 6.2 on page 5 of the paper of 29 June, which asks who is co-ordinating the multi-agency response to the border. That reflects a concern that came across time and time again last week when he was in the position you are in at the moment, which is that there simply was not anybody he could turn to in order to get sense out of Government, given what has happened with the Department of Justice, and you are saying that there is, in two Departments of State. Is that something that has happened subsequent to the remarks he made last week?

Karen Bradley: It is not something that has happened subsequent to the remarks. It is a fact that the policy for exiting the European Union sits with the Department for Exiting the European Union for the whole United



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Kingdom and the policy around policing for the whole United Kingdom sits within the Home Office. The difficult we have for PSNI is that it has additional difficulties over other police forces in the United Kingdom in that, first of all, the Department of Justice does not have a Minister in Northern Ireland whom it would normally report to and liaise with on these matters. That is a fact. It is a very unfortunate and frustrating fact, but it is a fact. The other point is that PSNI is the only police force that will have to police a land border with the European Union which, again, puts it in a unique situation as compared with other police forces.

We have been speaking to the Chief Constable as Northern Ireland Office and, let us be clear, Northern Ireland Office does not have ownership of any of those policy areas. We are a liaison Department when it comes to these matters, but we have been clear that we will make sure that the Chief Constable has access to whomever he needs to have access to and that briefings will be given, but any specific questions that he posed on 29 June we are making sure that he has answers to, so that he can deal with the future and make sure that he has the right resources that he needs.

Q191 Chair: If that is the case, there is clearly a difference of opinion between you and the Chief Constable. He puts three immediate requirements—just three—in the conclusion to his report, the second one of which is clarity as to who is leading the required multi-agency response to a land border between the UK and the EU. He does not know. It is an extraordinary thing—he reflected upon this in the evidence he gave—for somebody like the Chief Constable, such a senior official, somebody of George Hamilton’s standing, to make that assertion. That is what worried us. Are you saying that he is in error?

Karen Bradley: I am not in the slightest saying that he is in error. I am saying that, as the Northern Ireland Office, we will make sure that he has the contacts and appropriate people to speak to that he needs. He has put this request to us and we are making sure that we are dealing with those requests, but, as I say, the Northern Ireland Office in this context is a liaison office, a Department that can bring together those Departments and policy officials that have policy leads in these areas. We will make sure that he has that single point of contact that he has asked for, so that it will make his life easier.

Q192 Chair: The third requirement that the Chief Constable makes in his paper, and that he again referred to last week, was to do with resourcing for the various scenarios that he could reasonably foresee for 29 March next year. These are not excessive scenarios at all, but, given the uncertainty to which you have referred, which will hopefully be resolved on Friday, he has to plan for those things, and he clearly has to attach resources to that if he possibly can. How is that compatible with the flat cash RDEL for the Department of Justice for 2018-19 that you spoke about in March, and which will be the subject of further discussion on Monday?



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Karen Bradley: What was decided in March was to enable the budget to go forward, so that public services could continue to be delivered with Permanent Secretaries knowing how much money was being allocated to their Departments in the normal process. This is an additional request for additional resources. Now that we have received this request, it is clearly being looked at as a request would be looked at from any Chief Constable were they to put one in in the middle of a financial year. That is not an unusual situation. If extenuating or unique circumstances arise, it would not be unreasonable for a request to come in. It is now being looked at in the way that all those requests would normally be looked at.

Q193 **Chair:** The Chief Constable made the point that, with every month that goes by, it becomes less and less possible to have officers in place by 29 March, if that is necessary. It looks like, under most scenarios, it is going to be necessary. Whether you are a Brexiteer or not, it looks like that is going to be necessary. He can probably get 100 officers trained up by 29 March, but with every week that goes by that becomes less and less likely. What sort of urgency do you attach to this? It seems to me that we are seriously impeding his prospects of ensuring that there is adequate cover for anything that is likely to happen after 29 March, in not making decisions on these simple resource issues.

Karen Bradley: The level of urgency I place on it is that I have spoken to him twice this week, including before this Committee session this morning. I am in regular contact with him and I do place a level of urgency on it, but a lot of what is in the paper is dependent on the White Paper that will be discussed at Cabinet next week and it would be wrong for me to speculate on that.

Q194 **Lady Hermon:** Thank you very much indeed, Secretary of State and your officials, for coming to give us evidence this morning. I have listened intently to what you have said. Could I just check a number of points?

You have said that the PSNI is in a unique situation compared with other police forces throughout the UK. It is the police force that will have to police a land frontier with another EU member state after Brexit next March. Are you saying to the Committee, or did you in fact say to George Hamilton this morning when you spoke to him before this Committee, that he is not getting any more resources post-Brexit? Is that the message that you are giving to this Committee?

Karen Bradley: No, absolutely not. I am saying that he has put a request in and we are looking at that request.

Q195 **Lady Hermon:** This is what was so extraordinary, concerning and astonishing about what he had to say last week. He has confirmed what you have just said, that you speak to him on the telephone and meet with him regularly. Despite the regular meetings with you as the Secretary of State for Northern Ireland, in the absence of the Department of Justice, the Chief Constable said that he was "in the dark" about who was a co-ordinator in the Brexit preparations in Northern Ireland, in



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terms of policing. He described himself as being an “orphan” in who he should turn to as a co-ordinator. Secretary of State, surely to goodness, you are the co-ordinator. You are the Secretary of State for Northern Ireland. In the absence of a Justice Minister—you have not given us any hope or expectation that that situation is going to change any day soon—you sit in the Brexit committee in the Cabinet. Are you not the co-ordinator that George is looking for?

Karen Bradley: No. I go back to the point about the role of the Northern Ireland Office. I have no executive powers in Northern Ireland.

Lady Hermon: I am not asking you to.

Karen Bradley: I know you are not, Lady Hermon. I know you know that full well.

Lady Hermon: Yes, exactly.

Karen Bradley: I want to be clear that I do not have executive powers. I cannot direct civil servants and I have no budget. The Northern Ireland Office exists on a budget of £20 million. I do not have a pot of money that I can allocate to the PSNI.

Our role as Northern Ireland Office in these kinds of issues is that we are a liaison and co-ordination Department, to make sure that those Departments that have policy leads in these areas work together so that the requests and concerns that the Chief Constable has raised are dealt with, and that is what we are doing. The Chief Constable has sent the letter to us and we are working on that letter but, to be clear, we do not have policy lead on policing; that is in the Home Office. We do not have policy lead on exiting the European Union; that sits within DExEU. That is, quite rightly, the way that Government operate.

Q196 **Lady Hermon:** Yes, Secretary of State. I have listened to all that very carefully, but you sit in Cabinet with the Home Secretary, the Prime Minister and the Brexit Secretary. You are all going off to Chequers. We will come to your expectations about the Chequers meeting at the end of the week, not that you will be able to tell us what is going to be the outcome, who is going to get the taxi or who will go in their ministerial car.

You sit with these people regularly in Cabinet. I am not asking about your budget. I want confirmation for this Committee, and for the people of Northern Ireland who will be watching this today, that you will discuss the concerns of the Chief Constable of the Police Service of Northern Ireland, which you have described as being in a unique situation post-Brexit, with the Home Secretary, the Brexit Secretary and the Prime Minister. Can you give me that assurance?

Karen Bradley: Absolutely. My job is to be in Cabinet as the voice of Northern Ireland.

Q197 **Lady Hermon:** Absolutely, so you therefore are the co-ordinator. Forgive



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me, Secretary of State; you are the co-ordinator that George has been looking for.

Karen Bradley: I absolutely speak up and make sure that these points are raised with all the relevant Ministers in Cabinet and outside. That is absolutely the job of the Secretary of State for Northern Ireland, and that is what I do.

As for whether it would be right to therefore describe me as the co-ordinator, I would take issue with that. I am absolutely the voice, the advocate and the person who makes sure that the issues in Northern Ireland are raised in Cabinet, properly addressed and properly dealt with. That is the job I have.

In terms of the role that George, the Chief Constable, has specifically asked for, we are working on that and we will make sure that a decision is taken about who is appropriate to lead this. I do not want to pre-empt those discussions with the Committee. It may well be that there is somebody else in Government whom it is appropriate to be.

Q198 **Lady Hermon:** Is that not you?

Karen Bradley: I suspect that it will be at official level. I cannot tell you, at official level, that it will be somebody from which Department. That is what I cannot tell you as we are working on it at the moment.

Q199 **Lady Hermon:** Is the Chief Constable whistling in the dark when he has asked for increased resources post-Brexit?

Karen Bradley: He has sent his report. We are looking at his report. It is being considered across Government. I will continue to speak up for Northern Ireland at every Cabinet meeting that there is and I will make sure that the concerns he has raised are dealt with, but we have to make sure that we get to the point where we know what our future relationship looks like, because much of what he has put in his paper is looking at all the different scenarios and conclusions that could come.

Q200 **Lady Hermon:** In fairness to the Chief Constable, who was very calm in giving us very detailed information last week along with his assistant Chief Constable, he explained that he did not want to be dragged at all into the politics of Brexit. He articulated the fact that dissident republicans, the new dissident IRA, as was confirmed by the ACC, are recruiting. They are recruiting at the present time. If organised criminals see the potential of the border after Brexit, whether it is soft, hard or whatever, they will exploit the border. Are you saying to the people of Northern Ireland, and particularly to the Chief Constable, that he should have no expectation of additional resources to help him police?

Karen Bradley: I have not said that at all, Lady Hermon. That is not what I have said. We are at cross-purposes here. You are asking who the person in—

Q201 **Lady Hermon:** Secretary of State, with the greatest respect, we had a



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briefing by your official, Mr Perry, yesterday, and we looked at the budget that you are going to take through and legislate for on Monday. We asked about additional funding for the Justice Department and for the PSNI. Is there any additional funding, could you confirm, for the Chief Constable in the budget that you will take through and legislate for on Monday?

Karen Bradley: The budget I am taking through puts into legislation what was put forward in March as the budget for the year; that is, the departmental allocations. In the normal course of business, as happens across many Government Departments, spending bids come in and they are considered. What we are doing on Monday looks at putting into law and giving a statutory underpinning to the departmental allocations that were set out.

Normally that process would be done. Yesterday we voted on the estimates, unusually. We do not normally go through the Division Lobby on the estimates, but we did. As part of that process the Northern Ireland block grant was agreed by Westminster. The normal process would be that that block grant, which we all voted on last night, would then be taken to Stormont and an estimates process would be gone through at Stormont to allocate to Departments the amount of money each Department has to spend based on the budget that was agreed in March. On Monday, we in Westminster are doing that job for Stormont because Stormont is not able to do it, to make sure that public spending is on a statutory footing.

As you will know and will have seen, and it happens throughout Government Departments, even after a budget has been agreed and an estimates process has been agreed—as we did yesterday—there will be bids for additional funding, which the Treasury will look at, for different parts of the public sector. What the Chief Constable has put forward is part of that process. It is not part of the process and formality that we are going through on Monday. I am not making any comment on the bids that have been put forward because they are now being considered. It would not be appropriate for me to make any public statement on them while they are being considered.

Q202 **Lady Hermon:** You can confirm that the budget you are taking through on Monday does not contain additional funding for the Chief Constable to recruit any additional officers this side of Brexit.

Karen Bradley: The budget that we are taking through on Monday is the formal estimates process that we voted on last night. Last night we voted on the amount of money that would be allocated to the Northern Ireland Civil Service through the block grant. On Monday, we will be voting on the Department allocations, the DEL spending and capital spending for each of the Departments. It is a formality that we need to go through so that public spending is on a statutory footing, but it is not the same thing as the request that has come from the Chief Constable, which we are now considering.



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Lady Hermon: Secretary of State, you know perfectly well, as the Chairman has said, even if the Chief Constable had 100 new officers recruited, those officers could not possibly be trained up and deployed along the border for border duties. The Chief Constable has explained the implications of Brexit loudly and clearly. He has met with you many, many times, as you put on the record, and has spoken to you often, but he is not going to get additional funding in the budget on Monday. You have confirmed that. Let us move to what you have said about—

Karen Bradley: To be clear, I have also said that we are looking at the bid he has put in and we will deal with that separately. On Monday, we are doing a formality. It is a process that needs to be done in the absence of Stormont Government. Nobody should read into it that this is in any way unusual. It is a formality that we need to go through.

Q203 **Lady Hermon:** I will just read back to you what you said, Secretary of State. “The PSNI is in a unique situation, policing a land frontier with another EU state after Brexit”. That is what you have said. You recognise it is a unique situation.

It is extraordinary, to put it mildly, that nine months away from Brexit the Chief Constable, who is—and I repeat his words—“in the dark” and “an orphan” as to whom to turn to for additional resources and who is going to co-ordinate the business plan, is saying, nine months from Brexit, that he does not know who to turn to. That is an extraordinary statement.

Moving on, Secretary of State, you have said that the UK Border Force will cover the whole of the UK. Is it the case that UK border officials will be deployed from England, Scotland and Wales in Northern Ireland?

Karen Bradley: The Border Force is a UK border force. It is up to Border Force to determine where its officials are allocated operationally. It is not a matter for me as Northern Ireland Secretary.

Q204 **Lady Hermon:** You have said, “The UK Border Force will cover the whole of the UK”, and the key is in the title. It is the UK Border Force. As you will know, in Scotland, England and Wales, the specific criterion in the recent recruitment drive for the UK Border Force was military or police experience, but in Northern Ireland it was not.

In the House of Commons in Northern Ireland questions on 9 May, this issue was raised with you about the discriminatory recruitment procedure applied only in Northern Ireland when the UK Border Force is, as you quite rightly say, a border force that will cover the whole the of the UK. I am just reading to you your short reply: “I am well aware of the matter and have taken it up with the Home Office. I hope to be able to report back shortly”. That was on 9 May in the Chamber at Northern Ireland questions.

On 9 May, whom had you taken it up with? Whom had you raised this discriminatory recruitment procedure of the UK Border Force with?



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Karen Bradley: We had raised it with the Home Office.

Q205 **Lady Hermon:** Let me read it back. "I am well aware of the matter and have taken it up with the Home Office". Had you personally taken it up with the Home Office?

Karen Bradley: Yes.

Q206 **Lady Hermon:** Which Minister had you spoken to?

Karen Bradley: I have spoken to the Immigration Minister.

Q207 **Lady Hermon:** Really?

Karen Bradley: We speak on a very regular basis on a number of matters. I had raised that matter with her. We had taken it up at official level with the officials at the Home Office and I had had a brief conversation with the Immigration Minister to say she was aware of the problem.

Q208 **Lady Hermon:** Do you recognise that it is in fact a discriminatory procedure in Northern Ireland?

Karen Bradley: We have written to Lady Hermon about this matter.

Q209 **Lady Hermon:** Yes, Lady Hermon wrote to you, Secretary of State, on 11 May.

Karen Bradley: We have responded to you.

Q210 **Lady Hermon:** On 20 June.

Karen Bradley: Yes. As you will know, there was a confirmation that different criteria—and I am just making sure that I get this right—were applied in Northern Ireland based on the legal advice from Crown solicitors, following queries raised by the Equality Commission for Northern Ireland.

Q211 **Lady Hermon:** Had you read the advice by the Equality Commission for Northern Ireland, Secretary of State? Did you read the advice?

Karen Bradley: Yes. You raised it with me, Lady Hermon. I made sure that I looked into it. We want to make sure that this matter that you raised with me is properly dealt with, which is why I responded to you.

Q212 **Lady Hermon:** Absolutely. Can I just repeat the question? Did you read the advice given by the Equality Commission for Northern Ireland?

Karen Bradley: I read all my papers.

Q213 **Kate Hoey:** We asked the Immigration Minister if she had read it, and she had not read it. She also said that we would get a copy or she would look into us seeing what the Equality Commission had actually said. Have you actually read what they said?



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Karen Bradley: I have received advice from my officials. I have read all the papers that have been given to me by my officials. I am concerned when we see inequities and issues like this, but we have to make sure that we take the advice from the Equality Commission and we have worked hard to ensure that we have—

Q214 **Kate Hoey:** Did the Equality Commission decide that Northern Ireland is going to have a separate, different type of recruitment for something that is going to be a UK border agency?

Karen Bradley: We have to look at the legal position. We know full well that legal cases will be brought in Northern Ireland on a variety of matters. We need to make sure that, when we do things, we do things in such a way that they are not going to be challenged by the courts.

Q215 **Chair:** Secretary of State, can I just intercede? We received a letter on 21 June from the Immigration Minister and she responded to our question, which I will read out: "How many representations have there been from the Secretary of State for Northern Ireland to the Home Office regarding the issue of removing service in the armed forces and law enforcement as key criteria for Border Force jobs in Northern Ireland?" The response was—and this was 21 June—"To date, there have been no representations made from the Secretary of State for Northern Ireland", which contradicts what you have just said.

Karen Bradley: An official letter from the Secretary of State to the Immigration Minister would constitute a representation. I have not written officially to the Immigration Minister, but I have raised the point with her and we have discussed it. It is probably a technical definition about what a representation constitutes.

Q216 **Lady Hermon:** Could I just follow up on that? I am sure you will be aware that in fact, in the confidence and supply arrangement between the Democratic Unionist party and your own party, the Conservative party, the military covenant is mentioned. It is written into it. How do you think the standing of the military covenant is impacted by the discriminatory recruitment procedure by the UK Border Force, in that, where people have military or, indeed, police experience in Northern Ireland, that criterion is not used; they have to have academic criteria instead. The order was reversed in Northern Ireland, but only Northern Ireland. How does that impact on the military covenant in Northern Ireland?

Karen Bradley: As you know, we support the military covenant. As you said, it is part of the confidence and supply agreement and we are very clear on that, but you will also understand the difficulties there have been in getting all main parties in Northern Ireland to agree and adhere to the military covenant. One of the problems we had in the talks process that collapsed in February was how we dealt with that. We have allocated £300,000 of funding to ensure that the military covenant is properly looked at. We want to make sure that issues like the recruitment of



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Border Force officials respect where military or policing experience has been—

Q217 **Lady Hermon:** It did not. That is the problem.

Karen Bradley: To be fair, it was in the criteria set out in the application form, but we have been clear that we expect that kind of experience to be considered.

Q218 **Lady Hermon:** It was secondary. Academic criteria were the top priority. The specific criteria were academic criteria, not military and police service. The military covenant, as you will know, is defined as a moral obligation by the country and the Government to those who serve and have served in the armed forces, and the covenant is to treat them equally and fairly. The word is “fairly”. How do you think those constituents of mine who have been turned down by the UK Border Force in its recruitment drive because of their military or, indeed, police, experience feel about the Government upholding the military covenant towards them in Northern Ireland?

Karen Bradley: I would hope that they have not been turned down as a result of that. I would very much like it if, Lady Hermon, you would raise those specific cases with me.

Lady Hermon: I have done so.

Karen Bradley: I mean the actual individuals.

Q219 **Lady Hermon:** The individual is named in the correspondence to you. That is the letter that I wrote to you on 11 May and I had to wait until 20 June to have your reply. It is extraordinarily disrespectful to the individual concerned.

Karen Bradley: Perhaps I can write to you separately again on exactly the situation.

Lady Hermon: With the greatest of respect, it is not about writing to me, Secretary of State; it is about getting rid of discriminatory recruitment criteria that were adopted by the UK Border Force in Northern Ireland and only in Northern Ireland. It is a UK-wide border force. It is appalling. It is absolutely appalling.

Ian Paisley: Can I just give you a quick quote from the confidence and supply agreement, Secretary of State? It talks about the full implementation of the armed forces covenant throughout the whole of the United Kingdom. I hate to have to remind you in public that it is this confidence and supply agreement that keeps the Government in place. We expect this to be honoured. We expect the rights of those who served in the armed forces throughout the whole of the United Kingdom, and across the world on behalf of the United Kingdom, to be upheld in Ballymena, Bangor and Bellaghy—wherever.

Q220 **Lady Hermon:** Absolutely. It is an appalling situation that has been created by the Government.



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Karen Bradley: This is the Government who brought in the military covenant; this is the Government who legislated for the military covenant, and I want to see the military covenant applied to the whole United Kingdom, and applied to Northern Ireland in the same way as it is applied in my own constituency and elsewhere.

Q221 **Lady Hermon:** What are you going to do about it?

Karen Bradley: It was part of the talks process that we looked specifically at how we could deal with making sure the military covenant was properly respected across all parts of Northern Ireland. We have allocated £300,000-worth of funding to make sure that can be done. Perhaps I could write to the Committee with the specifics of what we are doing on the military covenant and where there are difficulties that perhaps the Committee could help us to overcome.

Q222 **Lady Hermon:** Secretary of State, with the greatest of respect, I wait and wait and wait for letters. I wait for a very long period of time for letters. I want you to announce to the Committee today, to our constituents right across Northern Ireland, that their military and, indeed, police service will be equally recognised as it is in Scotland, England and Wales when it comes to the recruitment of the UK Border Force.

Karen Bradley: I cannot do something that makes the situation worse. This can be the problem if we do something that is challenged in the courts and makes the situation worse. I want to do this in a way that ensures that it actually works and that we can achieve what we all want to achieve, which is the military covenant properly respected across the whole United Kingdom.

Q223 **Lady Hermon:** It is not. That is the point we have made. Veterans in Northern Ireland have been treated unfairly by the UK Border Force deliberately and wilfully, on the basis of the Equality Commission advice, which you say that you have read and were persuaded by, but it is totally adverse and contradictory to the military covenant.

Karen Bradley: As a Government Minister, I have to act within the law. That is the way that the ministerial code operates. If the legal advice tells me that this is the situation, I have to work within that law. That is an obligation on Ministers of UK Government, but I am determined that we will make sure the military covenant is properly respected across the whole United Kingdom.

Q224 **Kate Hoey:** Secretary of State, what is the legal advice? Have you had it in writing? Can we have it? The people of Northern Ireland, the servicemen and police, deserve to see that, do you not think?

Karen Bradley: Can I write to the Committee on the detailed points of all these matters and allow the Committee to see what advice I am allowed to let the Committee see?

Q225 **Kate Hoey:** Who gave the legal advice on this?



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Karen Bradley: It was the Equality Commission for Northern Ireland.

Q226 **Kate Hoey:** Does the Equality Commission have the right to make a legal decision?

Karen Bradley: They have the right to give advice. We have to look at the advice.

Ian Paisley: It is advisory

Q227 **Kate Hoey:** It is advisory. Secretary of State, you have already said that you do not have executive power, but you seem to have executive power when it comes to some things, like saying you are going to go along with whatever the Equality Commission says.

Karen Bradley: Let us not confuse what we are talking about here. We are talking about Border Force, which is part of the Home Office. It is a reserved matter. The Home Secretary has responsibility for Border Force. The Home Secretary and the Immigration Minister have to take the legal advice that they are given and act within that legal advice.

Q228 **Kate Hoey:** The Home Secretary—Secretary of State for the whole of the United Kingdom—took the advice in a letter from the Equality Commission for Northern Ireland that Northern Ireland was going to be treated differently.

Karen Bradley: Can I write to the Committee? We are on some very detailed points here and I do not want to say something to the Committee—

Q229 **Kate Hoey:** It is a very simple point, Secretary of State.

Karen Bradley: This would be a decision taken by a different Department and I do not want to speak on behalf of a different Department. I want to make sure of the way that this was dealt with, but we are acutely aware of the issue. The issue has been raised and is being looked at, and I want to make sure that the Committee has the appropriate and accurate advice.

To be clear, the executive powers I have are in respect of the civil service of Northern Ireland. This is a matter that is reserved; Border Force is a reserved issue, but it is a responsibility of the Home Office.

Kate Hoey: Oh well.

Q230 **Lady Hermon:** You seem settled on writing to the Committee instead of doing the right thing, which is removing a discriminatory recruitment procedure in Northern Ireland that has caused great offence. If you check your post you will see my letter dated 11 May mentioning specifically the details of my constituent, who served very courageously in the Royal Irish Regiment, and who has suffered an injustice and been treated unfairly, which of course contradicts the military covenant in Northern Ireland. We seem to be going round in circles, but I think people will be very struck, and not in a positive way, about what you have said this



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morning.

Moving on to MLAs' salaries, I remind you—and I am sure that you do not need reminding—that over three months ago, on 21 March 2018, we had a whole day debating the Northern Ireland Assembly Members (Pay) Bill, to give you, the Secretary of State, the power to cut MLAs' salaries. You said, and I am quoting here from your introductory words, that, "It is clear from my conversations with the public and stakeholders that there is broad desire" for there to be change, for this issue to be addressed. That was over three months ago. What have you done about it?

Karen Bradley: Lady Hermon, you are right about the public desire to do this. The legislation we brought through, we brought through at that point specifically to stop the increase in salary that would have taken place automatically for MLAs on 1 April. We deliberately took that legislation through in order to stop that increase. What you are now referring to is the reduction in pay that has been talked about on a number of occasions. I am considering the position.

MLAs clearly do work for their constituents. They work hard for their constituents. Many MLAs are in the position they are in, of not being able to be part of the Assembly in Stormont, through no fault of their own and I am extraordinarily mindful of those points, but I am also very mindful of the public opinion that has been expressed to me on numerous occasions and I am considering the position.

Q231 **Lady Hermon:** You are very mindful of public opinion; you were very mindful of public opinion three months ago. On 21 March, you went on to say that you were minded to cut the salaries. You said in the House of Commons that you were minded to cut the salaries of MLAs. We are not dealing with the staff here. We took the staff out of this. They work extremely hard and all that, but you did say on the record that you were minded to cut MLA salaries in line with the recommendations of the Trevor Reaney report, which was published before Christmas last year, on 20 December 2017. Have you any idea just how angry and fed up the general public are with the fact that MLAs are receiving their full salary 18 months after the collapse of the Assembly?

Karen Bradley: I am extraordinarily aware of public opinion on the matter.

Q232 **Lady Hermon:** What are you doing about it?

Karen Bradley: My constituency Facebook page had a picture of me at the commemorations of the Somme in northern France on Sunday. The comments below that are not about the commemorations of the Somme; the comments are about MLA pay, so of course I am aware of it. These are the comments that are made to me every day I am in Northern Ireland, everywhere I go, on social media and face to face. Of course I am aware of the public concern about this.

Q233 **Lady Hermon:** May I just say, for the record, that I was extremely



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grateful to you and very pleased to see you at the Somme commemoration? I am very grateful to you indeed. I am sorry about the comments that you received on Facebook.

Karen Bradley: They were not unpleasant comments; do not worry. They were just asking me to “please now cut MLA pay”. That is why I say I am extremely aware of the public concern about this.

Q234 **Lady Hermon:** What has prevented you from doing something about it? Why have you prevaricated for so long, for 18 months? These are MLAs, Members of a Legislative Assembly. They have not passed any legislation. They have not been sitting in Stormont. They have not made any executive decisions. How can you possibly justify sitting still, treading water and not cutting their salaries?

Karen Bradley: As you will know, I passed the legislation and we brought the Act in—

Lady Hermon: Three months ago.

Karen Bradley: —specifically to stop the increase in pay that would have automatically happened if we had not done that. To have allowed an increase in pay would have been—

Q235 **Lady Hermon:** That is not the issue that I am raising with you, Secretary of State, as you well know. It is MLAs’ salaries.

Karen Bradley: I know. I am just setting out that the reason we did the legislation was to ensure we stopped the increase in salary. I then asked for representations on what we should do and I have had a number of meetings around that point with a number of MLAs, expressing their views about the right thing to do. We are looking at people’s employment, their salaries, their mortgage payments, et cetera. I have to be very mindful of that. I also have to be mindful of the fact that they work hard for their constituents on the whole and therefore we have to consider those points. I am still considering the position.

Q236 **Lady Hermon:** I do not think the general public are persuaded by that, if I can say that to you, Secretary of State. You said all these fine words: there is a broad desire; you are minded to implement the Reaney report. That was three months ago. They are not persuaded by what you have said today.

Can you tell us which political parties objected to MLAs’ salaries being cut? You have met with them, spoken to them and taken representations. Which ones objected?

Karen Bradley: It would not be right for me to comment on private meetings.

Lady Hermon: It would.



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Karen Bradley: I have had meetings with main party leadership and MLAs from the parties. It would not be right for me to express who said what in those meetings.

Q237 **Lady Hermon:** I am sorry, Secretary of State, but you said on the record—and again I am quoting you from three months ago—on 21 March in the House, as is recorded here, “I am happy to publish any representations made to me”, although they might have to be redacted as appropriate.

Karen Bradley: These are verbal representations. It would not be appropriate for me to tell the Committee which parties and who said what to whom.

Q238 **Lady Hermon:** Yes, it would. It would be appropriate to tell the public in Northern Ireland how much MLAs have cost them in the past 18 months. What is the figure? Colin, you gave us all sorts of statistics about the budget for Monday. I am sure someone has at their fingertips the cost of paying the MLAs their full salary for 18 months. What is the number?

Colin Perry: It is £6.3 million per year.

Lady Hermon: £6.3 million has been used to pay—

Karen Bradley: That is the annual cost of paying MLAs.

Q239 **Lady Hermon:** Is that excluding office costs?

Colin Perry: Yes.

Q240 **Lady Hermon:** What about staffing costs?

Karen Bradley: Does it include pension costs?

Colin Perry: It does include pension costs.

Karen Bradley: It is the total overall cost, including national insurance and others, of paying MLAs.

Lady Hermon: It is absolutely outrageous that that amount of public money has gone towards the paying of MLAs who have not done their job for 18 months, and I will leave it there.

Q241 **Chair:** Secretary of State, can I just draw your attention to evidence given by the Immigration Minister on 22 May? I appreciate that that was a while ago now. It is on this issue of the Border Force, the Equality Commission and who said what to whom. You make the point, reasonably I suppose, that a representation can take many forms.

On 22 May, Lady Hermon asked the question—

Lady Hermon: Yes, absolutely, and the Immigration Minister said that she had not seen the Secretary of State.

Chair: If I can quote Lady Hermon, “The Secretary of State for Northern Ireland has not spoken to you about this issue” referring to the aforementioned issue. Caroline Nokes, the Immigration Minister, said,



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"No, I do not believe so". She was saying on 22 May that she had not had a conversation with you about these matters. Are you saying now that the conversation you alluded to earlier on was held between 22 May and the present day?

Karen Bradley: It would be impossible for me to give you the date. I can just assure you that we have had a conversation about it.

Q242 **Chair:** There are two possibilities: either you have had the conversation since 22 May or the Immigration Minister was incorrect in the evidence that she gave.

Karen Bradley: It was an informal conversation. It was a conversation, as often happens between Government Ministers, where we discussed things. I could not tell you exactly the date it happened, but we have had a conversation about it.

Q243 **Chair:** When was it approximately? I cannot remember very much what I was doing back in May, but I could probably remember what I was doing in the last few weeks, so you might still have a fairly clear idea.

Karen Bradley: It was sometime between Lady Hermon raising the point with me in the House and today. I would not want to even try to speculate as to when that was.

Q244 **Chair:** It was a conversation you had sometime between 22 May and today.

Karen Bradley: It was sometime between when Lady Hermon raised the point with me originally in the House of Commons—a point that I had been made aware of previously, and I did know that there were concerns about this matter—and today, but I would not want to tell you exactly which date.

Q245 **Jim Shannon:** It is nice to see you, Secretary of State. There are a couple of issues I want to bring to your attention. Legacy issues, Secretary of State, continue to be a massive problem, with the pursuit of soldiers and police officers in recent investigations that have happened three, four or maybe even five times, where no pursuit of conviction was ever made, and then we find that the whole process is looked at again. Have you, as the Secretary of State, had any discussions in relation to this with the Prime Minister, or with the Minister responsible, that would stop these investigations? I am very clear, Secretary of State, where someone has done something wrong, but if somebody has been investigated three, four or five times you have to ask yourself the question: why are they doing it now again, yet once more?

There is frustration in the House. Leo Docherty, as you know, had an Adjournment debate in the House the week before last. Some 60 MPs attended that Adjournment debate, which would be an indication of the strength of thought across the House. Can you give some idea of when this legacy pursuit of soldiers, for someone's particular political aspirations in one party, will stop, and when soldiers and police officers



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can feel that they will not be pursued for something that has been investigated before and there is no substance for following it again?

Karen Bradley: I want to start by putting on the record something that I have said on a number of occasions, but my thanks go to the veterans and the RUC officers who served during the Troubles. If it had not been for their very brave acts, we would never have reached the position we did reach where it was possible to come to the Belfast agreement and see the relative peace and security that we see today in Northern Ireland. We all owe them an enormous debt of gratitude.

You also refer to the point that the current situation is not acceptable to anybody. What is happening today with coronial inquests, with the PSNI Historical Investigations Unit and the Police Ombudsman, means that there are cases being taken and inquests happening into matters that have been investigated on a number of occasions, and criminal prosecutions brought against veterans, which I know are upsetting for them, their families, but also for all of us who see people being dragged in front of the courts in their 80s, or perhaps 90s, for things that happened 40 or 50 years ago.

You will know that we released the consultation on the institutions that were agreed at the Stormont House talks. It is important to say that when Stormont House talks started in 2014 that was in reaction to the HMIC report into the Historical Enquiries Team, which meant that that team was disbanded, and therefore those legacy matters were no longer being investigated in that controlled way through a specific team looking at that. You will know full well that that is why the Stormont House talks happened, and the Chair was part of the team that worked on that in his role in the Northern Ireland Office at that time.

My great thanks and credit go to him for the work that was done at that time: 11 weeks of talks to reach a conclusion that—while I do not think anyone would say that the institutions agreed at the Stormont House talks are entirely perfect, or that they will address every single individual's concerns about what happened during the times of the Troubles—is a step in the right direction and certainly better than the status quo that we have today.

The difficulty of course has been that taking clauses from an agreement that took 11 weeks to negotiate and turning them into legal text has proved to be a more difficult task than perhaps anyone anticipated. That is why we are now consulting on the draft legal text that we have worked on, so we can ensure that we hear from everybody and that the exact points you raise about protecting veterans and giving them appropriate protection is built into the process, so we can deal with these matters in a proportionate and fair way.

Jim Shannon: You are right to say, Secretary of State, that we owe an immense debt of gratitude to those who served in the Province, both in the police and the Army, as well as all the other services. I have a



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number of retired police officers who are making me aware of investigations into them that are ongoing, and they are finding it all very disconcerting.

You will appreciate, Secretary of State, the annoyance that many of us have as elected representatives, not just on behalf of our constituents but on behalf of the process that is going forward, which seems to be politically motivated, for the investigations, with little or no evidential basis for doing so. We are ever mindful—and my colleague and friend on my left-hand side, the Member for East Londonderry, will be well aware of this one—that we see other people, who have had the on-the-run letters, who can basically run the length and breadth of the Republic of Ireland, and now Northern Ireland in fact. One of them would be the Mayor of Sligo, who managed to scoot up to Londonderry with his chain on, a person who—I am within the privilege of this House, so I can say it publicly—was involved in the murder of one of my second cousins.

You understand the frustration that we all have, Secretary of State, in relation to these issues. Why is it that those who have got on-the-run letters are free to willy-nilly pursue their lives, whereas other families are trying, 30 years later, to come to terms with their grief and loss, and yet we find the issue of the pursuance of police officers and army personnel with a zest that is most frustrating? I have to put it on record, Secretary of State, that I am most concerned, as other members of this Committee are concerned, about that procedure and what is happening.

Karen Bradley: There are a few points that you have raised there, and I may turn to Chris shortly, to go through some of the technical details. On the on-the-run letters that you refer to, I will be absolutely clear—as my predecessors have been, and as the Prime Minister and the previous Prime Minister have been—that those letters have no legal weight. We do not recognise them as having any legal weight whatsoever. It is clear that presentation of an on-the-run letter does not buy any form of amnesty or immunity from prosecution whatsoever. We are absolutely clear.

Q246 **Jim Shannon:** Secretary of State, I do not want to interrupt; I just want to say this. The Mayor of Sligo comes over the border into Londonderry and parades himself with his chain on. He was investigated for the murder of Lexie Cummings, as we are well aware. Why was he not arrested as he should have been? When he got out of Omagh court many years ago, he went straight across the border and basically stayed there. Then he saunters across the border with this letter and seems to get away with it.

Karen Bradley: That is an operational matter for law enforcement and the judiciary, but I want to be clear that the on-the-run letters have no legal weight whatsoever. I have spoken about this with the Attorney-General. I have been clear that they have no legal weight and that there is no immunity from prosecution through using an on-the-run



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letter. Decisions about prosecution are matters for the DPP and for the judiciary, and they will make those determinations.

Q247 **Ian Paisley:** We did an inquiry into this. We had a previous Prime Minister sitting where you are sitting. These letters do have legal standing. These letters got Mr Downey out of jail free. He came to the mainland; he was arrested properly; he was questioned; he was brought to court; he produced his letter and it stopped the trial. He murdered people less than 200 yards from here.

Karen Bradley: That is exactly why you had your inquiry and why the previous Prime Minister was clear, having taken legal advice, that these letters have no legal weight. A decision taken at the court at that time in the case of the Downey trial was the wrong decision. They should not have taken that decision.

Can I go on to the point about how we ensure that we have the appropriate protections for the former military and the RUC? I know there are many people who think that an approach other than a Stormont House approach would be the way to deal with this. I have to say that I have extreme nervousness, if not revulsion, at the idea that we would do something in this Parliament that attempted to do the right thing, as we all want to do, and give some form of protection to our military, but which in turn ended up giving protection to terrorists and giving them immunity from prosecution. That is not acceptable to me.

I want to make clear my concern about the proposals that have been discussed and put forward around the statute of limitations for the whole UK. My concern is that they would leave the RUC officers who served in a civil matter with nothing. This is very important. There is a lot of confusion in the public mind about what happened in Iraq and Afghanistan. The way we have seen United Kingdom military being taken through the courts by lawyers who had money as their only motive is utterly unacceptable, but we should not confuse what happened in Iraq and Afghanistan with the situation in Northern Ireland, which was a civil matter and was never a war.

I do not want to give any equality to the brave acts of our service personnel and law enforcement personnel with the criminal terror that was levied by the dissidents and the paramilitaries. Every killing by a terrorist is a crime and it should be properly investigated and properly treated as a crime. We need to be very careful and circumspect when we start to think about ways that may superficially appear to give protection to the military, but would end up doing the precise opposite.

A statute of limitations would not stop coronial inquests, for example. Those inquests would still continue under article 2. We would still see the military being dragged into inquests and being made to account for the actions that they took, but we would not see criminal prosecutions of terrorists if we went down the route that some people suggest. I know they want to do it for the very best of intentions—I do not doubt their



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intentions—but the proposals that they have put forward would potentially see that happen.

Chris, I do not know if you want to add anything in terms of the on-the-run letters in particular and the legal position.

Chris Flatt: I would just repeat and stress what you have said, Secretary of State. On-the-run letters do not have any legal force. Lady Justice Hallett confirmed that in her report. The police are aware of that. As this Committee knows, the police are looking through priority cases among the on-the-runs to see whether there are any evidential leads that they can pursue. It is, as the Secretary of State says, an operational matter and it is for the police to decide whom to investigate and to arrest.

Q248 **Ian Paisley:** Why has nobody been arrested and tried?

Chris Flatt: It is for the police to pursue evidential opportunities.

Q249 **Kate Hoey:** Which police—in Northern Ireland or in London, England?

Chris Flatt: The Police Service of Northern Ireland are looking through priority cases but that would apply to anyone else.

Ian Paisley: We are saying today that there is an all-points bulletin out there: if Mr Downey comes into the United Kingdom, arrest him and let us try him again.

Chris Flatt: That is an operational matter for the police. If the police believe that there is anyone they want to investigate or arrest, that is for them to determine. As Lady Justice Hallett confirmed, having one of these letters has no weight or standing in that regard.

Q250 **Kate Hoey:** Mr Flatt, he was arrested. There was evidence. He was brought to court and the court said he had to be released because of this on-the-run letter. If what you are saying is true, why are we not having an arrest warrant for him and bringing him back from Donegal to be tried?

Chris Flatt: That was a decision of the court in relation to that specific case.

Q251 **Kate Hoey:** The evidence is still there.

Chris Flatt: It is for the court, the prosecutors and the police to decide whether to pursue individuals. There was a court decision, related to the fact that the letter was issued in error. The court in that case pursued it. Lady Justice Hallett looked at that and looked at all the other cases to see whether there were other errors in the system. The fact remains that, if the police believe they can arrest someone and they have the evidence, and the prosecutors believe they can prosecute them, that can go ahead.

Q252 **Jim Shannon:** I have one other question for you, Secretary of State. It is a frustration we have as elected representatives. Last week, I met your colleague, the Minister of State, Shailesh, in relation to capital grants for



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the agri-food sector. We had a very good meeting with Tim Acheson from Pritchitts and Lakeland Dairies in my constituency. It applies to them, Mash Direct and Willowbrook Foods, but it also applies to many other agri-food sectors across the whole of Northern Ireland. There is a capital grants system in place ready to go. The money is there. The process is there as well, by the way. The frustration we have is that we are not able to move that forward.

The Minister of State very kindly agreed to the meeting and he has been in touch, but I just want to convey to you, as Secretary of State, the frustration we have with the system, when the skeleton form to make it happen is there and the Department is ready to go but there is no one to make that decision.

The same thing applies—very quickly, as I understand the time and I am not going to keep you any longer than I have to—with the issue of insulin pumps, just to make the point. In the last three weeks, I have had two small children under 10 who have been diagnosed as type 1 diabetics. These are bread and butter issues, Secretary of State, as you will appreciate. I have spoken to the Permanent Secretary, Richard Pengelly, in relation to this here and he knows the issue.

The third one, to put it on record very quickly, is one that my colleague, the MP for Northampton, brought up about pharmacies. I met the pharmacies last week and I will be meeting them again shortly. I have spoken to Richard Pengelly about this one as well. We have funding issues for those three categories, two of them health and one dairy, and we have the frustration of the system. How do we govern it and how do we make things happen better? I know you had a meeting on Monday past in relation to how we take it forward, but you will understand our frustrations as elected representatives. We need to have accountable Government. We need to have a methodology where we can move forward and make these things happen. We have a Permanent Secretaries who want to do something but who cannot.

Karen Bradley: Mr Shannon, you express exactly the problem we have and the frustration we all share because of the lack of an Executive in Stormont. Civil servants cannot make political decisions. They need political cover to make these decisions. They need direction from Ministers. You are right; you had a meeting with the Minister of State, and this issue was raised with me at the Balmoral Show by Diane Dodds MEP. It is extraordinarily frustrating.

The same issue was raised with me, and it may come up later—I do not know—about the Commonwealth Youth Games. I did everything I possibly could to try to unlock the situation but I do not have executive power; I do not have the ability to direct. That was clear from the Hughes judgment that was given in relation to the funding required for the reform of the inquests, where it was absolutely clear that, as the Secretary of State, I have no executive powers whatsoever. The only way to have those executive powers is to legislate in Westminster through primary



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legislation. That is extraordinarily frustrating. I am meeting Mr Paisley later with representatives from community pharmacists. I know how important they are. They are very important in my own constituency and I have battled for them as a constituency MP.

Q253 Jim Shannon: Minister, this is the last thing. I said the same thing to the Minister of State. We were able to legislate for cannabis oil for medicinal purposes. We found a way of doing it. Can I suggest very kindly, Secretary of State—we are always kind, as you know, in how we do things—that, if there is a will, there is definitely a way. That is all I would say to you.

Karen Bradley: We have not legislated on cannabis oil.

Q254 Jim Shannon: By next Tuesday you will have, in Northern Ireland.

Karen Bradley: Can I just give the differentiation between the two issues? It may feel to the general public that this is absolutely ludicrous, but the control of drugs and the treatment of the control of drugs is a reserved matter that is dealt with by the Home Office for the whole United Kingdom. The Home Office is therefore able to legislate for Northern Ireland as it is for England, Scotland and Wales in terms of cannabis oil for medicinal use. That is something that is possible.

The issue of capital grants for agriculture and the issue of community pharmacists are very much devolved matters; they cannot be legislated for by either Defra in Westminster or the Department of Health and Social Care in Westminster to apply in Northern Ireland, because that is the way the devolution settlement and the devolution arrangements in Northern Ireland work, and they have been in place for nearly 100 years. These are not new things; these are devolution arrangements that have been in place since 1921 and 1922.

I share your frustration, but I just have to say that, legally, the only way I could deal with this would be primary legislation in Westminster on each of these individual matters. I would just caution that, every time we legislate in Westminster, we will come under pressure to legislate on a number of matters, and we will perhaps give permission to people to feel that they can legislate on a number of matters that apply to Northern Ireland. We need to be very mindful of that point.

Q255 Jim Shannon: I will say very quickly that the Home Office indicated to me that there were some difficulties doing what it did but it found a way. I will leave it at that.

Karen Bradley: They absolutely had difficulties, but the treatment of drugs and the control of drugs is a reserved matter, which the Home Office in Whitehall has responsibility for, for the whole United Kingdom. Unfortunately, Defra does not have responsibility here in Whitehall for capital grants for agri in Northern Ireland, nor does the Department of Health and Social Care have responsibility for community pharmacies. It does not have the executive powers; it is just a fact of the devolution



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arrangements. It is frustrating and it is complicated, and I realise it sounds utterly ridiculous to the man or woman on the street that these differences exist, but they do.

Chair: Last week, we were here for two and a quarter hours, and I do not really want to beat that record. It would be much appreciated if we could have short questions and short answers.

Q256 **Kate Hoey:** Yes, we certainly need short answers; I am not so sure about the short questions but I will try. Secretary of State, on that last issue over Downey, on behalf of all of us who were involved in that inquiry, I would ask you to write to our Chair, please, with a resume of exactly what you have said, because that will be of most interest to those families who are now legally in order to take an action against Downey civilly.

Do you accept that around 98% of Troubles-related incidents were perpetrated by terrorists, which includes bombings and shootings, and only 2% were attributed to the state?

Karen Bradley: The figures I have are 90% and 10%. In any event, it is significantly more. A vast majority of the killings that took place during the Troubles were terrorist murders, yes.

Q257 **Kate Hoey:** The PSNI at the moment are saying that they are only going to investigate where there have been fatalities, of which the state were responsible for something like 10%.

Karen Bradley: Yes, that is the figure we have.

Q258 **Kate Hoey:** The PSNI caseload at the moment in relation to the state accounts for 30% of their current investigations. As the Secretary of State for Northern Ireland, you have said how indebted we are to the service men and women and the police officers. What are you doing yourself to challenge this and to protect veterans concretely?

Karen Bradley: The first thing is the consultation on setting up the Stormont House institutions. The setting up of the Stormont House institutions will mean that the PSNI Legacy Investigation Branch will be disbanded and will be moved into the Historical Investigations Unit as agreed under Stormont House. There, all of these killings will be dealt with in chronological order, and only those that are crimes will be investigated. There will be a high bar. We are consulting on how we make sure we put the right protections in place for military and law enforcement so that we really do focus on those terrorist activities, and make sure they are properly investigated. As you say, at the moment, 30% of the PSNI legacy workload is state actors and it should not be that number; that is a disproportionate number.

Q259 **Kate Hoey:** Do you agree with the PSNI when they say that, under the HIU, they will not be able to investigate anything unless there has been a fatality? It is only if death is involved.



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Karen Bradley: It would not be the PSNI investigating; that is the point. It would move into the HIU.

Q260 **Kate Hoey:** The PSNI have said to us that the HIU will not be investigating where it has just been victims who have non-fatal injuries.

Karen Bradley: I will turn to Chris, just to make sure we get this absolutely right.

Chris Flatt: Following on from the Stormont House agreement, the focus of the Historical Investigations Unit will be on investigating deaths.

Q261 **Kate Hoey:** That is the focus, but does that mean no victims who have been injured as the result of an IRA bomb will ever have that investigated?

Chris Flatt: In the investigation into a death, if the HIU becomes aware of related crimes, it can pursue those and potentially pursue prosecutions for related incidents. If people were injured in an incident that also resulted in a death, there are arrangements in place to allow them to receive reports into what happened, to take account of the fact that the people who were injured will also want to know what happened to them. It is the case, though, that, if we were to extend the work to also include people who are injured but where there was not a fatality, we would be talking about tens of thousands of additional investigations.

Q262 **Kate Hoey:** I appreciate that, but you are aware of the Metropolitan Police being judged that they had breached the human rights of John Worboys's victims by failing to investigate properly what was a crime. Surely this might also breach the human rights of people. A crime is a crime, whether someone has been injured or—

Chris Flatt: We are not saying that there would not be investigations. We are not saying that the PSNI will have no involvement in relation to cases from the past. The PSNI would still have its ongoing duties to carry out investigations. In particular, if new evidence came forward in relation to a non-fatal incident, the PSNI would investigate that. We are not cutting off investigations. We are saying that we will transfer the investigations into deaths to the HIU. That does not mean that, if somebody has new evidence or the police develop new evidence into a non-fatal incident, that will not be pursued, but that would be by the PSNI.

Q263 **Kate Hoey:** Secretary of State, the word "collusion" is used a lot in Northern Ireland. As you know, there is no criminal offence on the statute book about collusion, but it is taking on an increasingly expansive meaning as part of perhaps one particular party's attempts to rewrite the past and the history. As the Secretary of State for Northern Ireland, what is your definition of "collusion"? What is your view on this about the way that collusion is now being used as some kind of special crime?

Karen Bradley: There is clearly concern where a definition and an interpretation is perhaps one that one would not want to see normally. The reason we have seen that is that the terminology of collusion is being



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put forward during the coronial inquests, which are obviously not criminal matters; they are the coroner looking at the inquest. One of the reasons we want to put all these cases into the HIU is so that we can manage them with proper definitions and appropriate ways of looking at this in a consistent way, not by them being looked at in the inquest. I go back to the point I made about the statute of limitations proposals that have been put forward. They would not stop the coronial inquest. The coronial inquest would still continue.

Q264 **Kate Hoey:** There will be a lot of people who do not in any way want to see someone who has been the terrorist given equality with the victim. You may not be able to do anything about it at the moment, but do you like the definition of "victim" at the moment? The official definition of "victim" equates someone who went out callously planting a bomb and the person who was killed.

Karen Bradley: I am going to bring Chris in.

Kate Hoey: No, I just wanted you personally to—

Karen Bradley: I am just going to address that specific point. The point you raise is the reason we have the problem in terms of the pension for victims, because there are people who, under the definition of the victim as set out following St Andrews in 2007, are self-inflicted victims. I know this is a point that has been raised on a number of occasions as to whether the definition of the victim should be changed.

I am extremely concerned that we have victims of terrorism—genuine victims of terrorism—who are not receiving pensions. I know this is a point that has been raised. It is clearly a devolved matter. It is another one of those very frustrating issues where it sits within the Civil Service of Northern Ireland but I have been clear, and I have asked the Victims Commissioner if she can do the work that is needed to look at the definition of a victim and to reform that, so we can make sure that pensions can be paid to genuine victims, and that those who were self-inflicted do not benefit from that.

Chris, you had a point on collusion.

Kate Hoey: Yes, very quickly.

Chris Flatt: While we do not offer a definition of collusion within the legislation, there is a draft that sets out, in this sort of area, the precise terms in which cases are brought within the HIU, within the tightly defined set of criteria, where there is a suggestion that a member of the security forces or other official has committed an unlawful act with the intention of preventing the pursuit of justice. We do not use the term "collusion" but it is in that sort of area, so there is some legal text setting that out.

Q265 **Kate Hoey:** Secretary of State, you have spoken a number of times about worrying about bringing different bits of legislation through as we



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do not have an Executive, but do you not think that really the time has now come to stop beating about the bush and just go for formal direct rule—I do not like that particular word; I am sure we can find another word that means the same—rather than pretending you might get the Executive back at some stage in the near future?

In the meantime, so much is not happening. The Commonwealth Youth Games, as you mentioned, was a classic example, and it was a classic example of passing the buck, because the Permanent Secretary said more could have been done by the Northern Ireland Office or the Government, in the sense of DCAL or the Department in England. Your Department and you yourself, I know, were very keen to have the Commonwealth Youth Games but in the end, if there had been the real will to make it happen, it could have happened, could it not?

Karen Bradley: Let us just go through what happened with the Commonwealth Youth Games. A business case was put forward while the Executive was still in place. The business case was commented on by Ministers at the time as not being value for money. That meant that, when the Executive collapsed—through no fault of any of those Ministers, who may well have ended up with a different position if another business case had been done or other issues had been looked at—the only thing the Civil Service had on the record was a ministerial decision that this was not value for money. In that point, they were not able to release the funds that were needed to give the certainty to the Commonwealth Games Federation.

Q266 **Kate Hoey:** Why did they not say that months ago, if they had all this, instead of waiting until the last minute, up to the day of the actual decision being taken, so that they were still talking the night before about going to work into the late hours to see if they could get a solution? Clearly, they were going to use the business case as the excuse.

Karen Bradley: They did say this months and months and months ago. It was very clear. The business case was not a secret matter. It had been talked about in the Assembly and talked about in the Executive. Everyone knew what the business case had found. We looked to see if there was legally some other way for that funding, which was sitting within the Northern Ireland Civil Service block grant, to be released or for guarantees to be given so that the Commonwealth Games Federation could have the certainty that the games would be delivered in Belfast. This is precisely the reason and exactly the example of why we need Ministers in Stormont.

Q267 **Kate Hoey:** How many more examples are we going to have before you finally accept that you will have to have a form of direct rule? There is a feeling that it may have more to do with the views of the Irish Government than your worry about collapsing the Executive, because the Irish Government would be very unhappy about it. How much are you being influenced by the Irish Government?



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Karen Bradley: The reason I do not want to go to direct rule is that I do not think it is the right thing for Northern Ireland and I do not think it is right for the Union. That is what I care about. I put the Union above everything else and I think that Northern Ireland being governed by the politicians who are elected by the people of Northern Ireland is the right thing for the people of Northern Ireland.

Kate Hoey: A bit like England

Karen Bradley: In my constituency, the decisions that are taken around many of the matters that affect my constituents are taken by a county council or a district council. They are not taken by Westminster; they are taken by the locally elected politicians and quite rightly.

Q268 **Kate Hoey:** Do we not have councillors in Northern Ireland?

Karen Bradley: We have councillors and they make some decisions, but we all know that there are difficult sensitivities around that. More powers have been put to the councils. There are fewer councils so that they are able to make more decisions, but there are certain decisions that sit in Stormont and the executive power is vested in Stormont.

When I sit down with businesses, for example, and set out to them what it would look like if we went into—you say you do not want to call it “direct rule”—some form of whatever you want to call it, with legislation in Westminster to suspend the institutions that were agreed under the Belfast agreement, which is what would be required, and Ministers appointed from Westminster to run the Departments of Northern Ireland, they tell me absolutely unequivocally that, while it might be a nice idea to have decisions made in the short term, in the longer term and even in the medium term the idea that those decisions will be taken from Whitehall and not in Northern Ireland is not attractive to them in terms of investment into Northern Ireland, in terms of creating jobs and in terms of having confidence in the future of Northern Ireland.

Q269 **Kate Hoey:** So the Irish Government have no influence.

Karen Bradley: This is a matter for the UK Government. It is a matter for me as Northern Ireland Secretary. I care about the Union and I want to strengthen it.

Q270 **Kate Hoey:** I have one final question to ask you, Secretary of State. Do you ever think of when you might do it in the future, or could we be here in two years’ time and still be saying that we have not got to a situation? Do you have a timeline in your own head?

Karen Bradley: I do not think it is helpful to put timelines, deadlines and anything else on this. The point is that we want to see the politicians who were elected in Northern Ireland by the people of Northern Ireland making decisions on their behalf. That is absolutely the best thing.

Q271 **Kate Hoey:** We all want that but there is a “but”, isn’t there? It is not happening at the moment. It is not likely to happen in the very near



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future.

Karen Bradley: I have not given up on it.

Kate Hoey: I suppose that is part of your job. Thank you.

Q272 **Mr Goodwill:** In your opening remarks, Chair, you talked about decisions not being made. We just heard about the Commonwealth Youth Games and the incinerator that is now not able to go forward. We have also heard about appointments not being confirmed, for example, on the Policing Board. One area where decisions are being made is on the budget, and you said on Monday night that we will give a statutory underpinning to the budget agreement that was made in March.

Obviously, when setting the budget for various Departments, there are matters on the record that the politicians at the time made that can be used as a reference point, almost like the co-ordinates that have been set for the automatic pilot. But you can only fly on automatic pilot until you reach that destination. When will we get to the point where, because circumstances have changed or because projects that were agreed have now been finished and new projects have to be started, we can no longer rely on the automatic pilot and we need to take decisions more proactively?

Karen Bradley: There are two points there. Perhaps I will start with the budget and then move on to the infrastructure decisions like the incinerator. On the budget, we were very clear that last year we had relied on the Northern Ireland Act to allow public spending to continue up to 95% of the previous year's public spending without there being any Act of Parliament to give that statutory underpinning. We felt that that was an acceptable thing to do and that the civil servants, because we were sufficiently close to the collapse of the Assembly and the collapse of the Executive, could use the decisions that had been taken before the Executive collapsed in order to continue public spending.

Mr Goodwill: Fair enough.

Karen Bradley: The legal advice we have now is that that simply is not tenable and that we are putting the payments for public services at risk of legal challenge, should we not give them on statutory underpinning. Let us be clear. In 2017-18, the budget work that was done to set departmental spending limits was not done until November 2017, and then it was in March 2018 that we did the piece of legislation that we are doing the equivalent of for 2018-19 on Monday. That was done in March last year, so really at the end of the financial year.

When I set out the departmental budget allocations, I did so after having worked with all the main parties, and enabling them to work with my officials and working with the Civil Service of Northern Ireland, to make sure that decisions we were taking were in line with what those parties would like to see if there were an Executive in place and they were the Ministers making the decisions, so that we were not putting unnecessary barriers in place to stop the parties coming together, forming a



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Government and taking the decisions that were needed, which is why we put the real-term increases into health and education, the cash increases, which were flat in real terms, into the Department of Justice, so that other Departments had to take some—

Q273 Mr Goodwill: Are those ballpark figures, or were some of the local politicians talking about particular projects in their areas or in their towns. What degree of granularity was there in that process?

Karen Bradley: In the case of the budget, it is overall departmental spending limits, of course including the money that was agreed during the confidence and supply agreement, so that additional money could be put in for infrastructure like the York Street interchange, that money could be released this year and spending could start.

When we legislated for the 2017-18 budget—and we did the Act in March—we did, as part of that, a vote on account for spending of up to 45% of the previous year's expenditure on 2018-19 public spending. We are getting to the point where we are reaching that 45% in some of those Departments, particularly ones that have received a tranche of confidence and supply money, which means that they are spending more rapidly this year than they were spending the previous year. In order that we do not reach a point in the middle of August where cheques cannot be written and salaries cannot be paid, I want to make sure we put that on a statutory basis to say that it is actually an estimates process.

Last night, we voted through the block grant for Northern Ireland for the year. Normally, that would then go through an estimates process—exactly the same instalment—which would set out, as we did last night, the amount that is allocated to each different Department. We are not able to do that in the absence of Stormont, so we have to do it as a primary Act in Parliament—a primary piece of legislation—but we have spoken to and worked with the main parties in this case, to make sure that they understand and agree broadly with the decisions that have been taken.

Q274 Mr Goodwill: When those proposals come to you as a red book—or I suppose, with the confidence and supply, an orange book—what degree of discretion do you have? Are there choices in there or is it “take it or leave it” en bloc?

Karen Bradley: There are choices about the amount that is put into each Department, but I cannot give executive direction to exactly how that money should be spent. We are relying on the previous decisions that were taken and the previous comments that were made by Ministers before the Executive collapsed, to ensure that the money is spent in the way that it is intended to be spent.

Can I just come on to the matter of the incinerator and the Buick case? That case has been appealed. We are awaiting the outcome of the appeal to see what actually is determined. As everyone will know with legal



cases, there is a range of decisions that could be taken and a range of comments will undoubtedly be made in the judgment, which will have implications for major infrastructure decisions in the future. We are working on contingencies around what we would need to do legally as the UK Government in Westminster to ensure that decisions can still be taken if, at the point that the appeal judgment comes out, we still do not have an Executive in Stormont.

Q275 Mr Goodwill: Do you have any emergency powers that you can use if, for example, there was a major crisis with water shortages or, God forbid, a foot and mouth epidemic? Are there specific emergency things you can do to allocate money in those situations or would that be the Treasury?

Karen Bradley: It would have to be the Treasury. There are no emergency powers in these situations but there are reserved powers that can be used in certain areas. A lot of policing is a reserved power, so we could use that. If you take the situation we saw at Grenfell, the local authority had the responsibility for delivering much of the services, but the Cabinet Office stepped in with an overall civil contingency. Likewise with flooding, as we see across the whole United Kingdom, when there was flooding in Northern Ireland we were able to deploy resources from central Government to assist in that, but ultimately the decisions need to be taken at the local level. If there was a civil contingency in your constituency in Whitby, the local authority would have responsibility for much of that, but it could call on central Government to assist in those situations.

Q276 Mr Goodwill: It sounds like you are sounding out the people who would be making these decisions as to what theirs would be and then trying to reflect that. How long can that go on before direct rule, or whatever you would like to call it, would need to take place?

Karen Bradley: None of this is satisfactory. None of this is where we want to be. It is extraordinarily frustrating. We are doing what we need to do to enable those public services. I want to put on the record my gratitude to the civil servants, who do amazing work and who have been put under immense and quite extraordinary pressure by having to take decisions for which they do not have the political cover they would otherwise have if those decisions were taken by elected representatives.

That is a very difficult situation and we see that with the number of court cases that we have awaiting us. There are court cases and reviews on just about every matter imaginable. I referred earlier to the York Street interchange, for example, for which a significant amount of confidence and supply money has been allocated. We are awaiting a judicial review that was made by the losing bidder on that case. No Minister, whether there were Ministers in place or not, could make any decision whatsoever on that particular matter while we awaited the outcome of the court case. We are sitting, as I say, in an extremely frustrating and in no way satisfactory position, but I do not want to put timelines or deadlines on



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things because expectations are often built in a very unhelpful way.

Mr Goodwill: The whole country of Belgium managed for quite a long time without having a Government.

Karen Bradley: It does make me wonder, given the number of times that people say, "If only we could get rid of politicians". Northern Ireland is perhaps an example of why occasionally we might be useful.

Nigel Mills: I do not think they kept paying them, though.

Q277 **Chair:** The important thing about the Mallusk case, of course, is that it hinges on whether it is proper for a senior civil servant to make a determination on a planning matter. If you lose that appeal and it goes against you, what then happens? Is that the point at which you have to come back to Parliament and say, "Look, this cannot continue indefinitely; in order to get anything really determined in Northern Ireland, somebody has to make a decision and needs to be empowered with that decision-making thing"? Otherwise, basically, nothing happens in Northern Ireland until we restore the Executive, which we can perfectly well agree is the ideal. Of course it is; that is taken as read. But, if it does not happen, basically nothing will happen. That is the only conclusion we could draw in the event that the Mallusk appeal goes against the Government.

Karen Bradley: We are looking at all the possible outcomes of that appeal. There is quite a significant spectrum, when one looks at what has been said so far in court and the arguments that have been made. There are a number of different outcomes that this could result in. We are looking at all the possible outcomes, putting contingencies in place and readying ourselves, so that we are ready to take whatever decision is needed to make sure that Northern Ireland can continue to have infrastructure decisions taken.

Q278 **Chair:** The only way you can do that is to put yourself in the place of the Ministers who are sadly absent at Stormont. Is that not the case?

Karen Bradley: It depends on what the judgment says. I do not want to pre-empt the judgment. There are a number of different outcomes.

Q279 **Ian Paisley:** Picking up on that last point, there will be a judgment hopefully before the summer Recess. There could then be a challenge in the Supreme Court, either by you or by the losing party. Is that correct?

Karen Bradley: It is possible. Again, I do not want to pre-empt that.

Q280 **Ian Paisley:** At the moment, we have to make do with government by judicial review at best. These decisions are not being taken and are essentially being stopped by JR. You used the word "ludicrous". It is becoming a shambles. The Northern Ireland public watching this today want you to step up to the plate and be Government because, with all the best will in the world, the Assembly will not do that for the foreseeable future. They need to hear some sense of hope out of the Northern Ireland



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Office that, actually, the NIO can do this job until we get the Assembly restored. Are you going to give them that hope?

Karen Bradley: I have been very clear that everything we do is under the four principles of our absolute commitment to the Belfast agreement, to our obligations under the Belfast agreement, to doing what is necessary to ensure good governance in a part of the United Kingdom that has not had a properly constituted devolved Government for 18 months, while removing the barriers to getting that good Government back in place. Everything I do is on the basis of these four tests. I make sure that I apply those before I make any decisions.

Q281 **Ian Paisley:** I appreciate that. Have you been advised by the NIO, or have you taken the view as the NIO, that all the parties with the exception of one are prepared to get back into Government today?

Karen Bradley: It would not be right for me to comment on the position of the parties. That would be for them to answer.

Q282 **Ian Paisley:** You used the words in your opening comments about "red lines". There is only one party that has red lines about getting back into Government. Is that not right?

Karen Bradley: I do not think I used the term "red lines".

Ian Paisley: Sorry, "preconditions".

Karen Bradley: "Preconditions". The point has been made about preconditions and parties coming without preconditions. I am looking at how we can make sure that we address those concerns.

Q283 **Ian Paisley:** Yes, but you are clear that none of the DUP, the Ulster Unionist party, the SDLP, the Greens, the TUV or the independent parties have preconditions about re-establishing the Government again tomorrow.

Karen Bradley: As I say, it would not be right for me to speak on behalf of the parties.

Q284 **Ian Paisley:** It would help the people if they knew you had that clarity that there is one party stopping the re-establishment of a functional Assembly.

Karen Bradley: Again, the parties should speak for themselves. It would not be right for me to put words in their mouths.

Q285 **Ian Paisley:** Okay, Secretary of State. I have some quick-fire ones. Are you telling us today that extra money will be made available to the Police Service of Northern Ireland?

Karen Bradley: I have received a letter from the Police Service of Northern Ireland and we are considering that.

Q286 **Ian Paisley:** You are considering it, okay. Do you intend to give a decision in that timeframe?



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Karen Bradley: It is not a decision for me to give. It is a decision for the Treasury once we have worked through, as Government, the request that has been made.

Q287 **Ian Paisley:** What is your understanding of the timeframe from them?

Karen Bradley: I could not give you a timeframe today. It would not be right for me to speculate.

Q288 **Ian Paisley:** Yesterday, when we met your officials with regards to the budget allocations, they were able to confirm that you took a decision allowing £100 million of capital funds to be used to address public service resource pressures. How is it that you are able to take that decision but you cannot take these other decisions?

Karen Bradley: We needed to balance the budget. I worked with the main parties as to what the pressures were, and we worked with the Treasury to have permission to reallocate capital into revenue on this occasion so that we had a balanced budget.

Q289 **Ian Paisley:** Balancing the budget falls into your key priority No. 3 of good governance.

Karen Bradley: Yes.

Q290 **Ian Paisley:** With the backlog of issues, which one of our previous reports has flagged up and which the Chairman in his opening comments referred to today, surely those issues become a matter now of good governance; otherwise, there will just be further backlog and delay. You could take the same action.

Karen Bradley: We are looking at all the matters. We are looking at all the outstanding issues and we are considering, subject to the Buick appeal and other matters, the way we ensure good governance of Northern Ireland. On appointments, I will make sure that Parliament is informed before the summer recess of the actions I intend to take.

Q291 **Ian Paisley:** You have mentioned that you have at your disposal some quick fixes here and there, where it arises, if, for example, power is a reserved matter or decisions can be a reserved matter. Can I refer you to the Civil Liability Bill that is currently making its way through Parliament with regards to the personal injury discount rate and how it is set? Across the whole of the United Kingdom, it is currently set at 2.5%. That is the discount. That was set in 2001 by the then Lord Chief Justice. There have been huge changes in capital flows and markets, so the Civil Liability Bill currently making its way through Parliament will reduce that to 0.75%. That may not seem to be much of a difference but, if we take some specific cases of the effects of this, Northern Ireland will not benefit from that unless it is included in the Civil Liability Bill. Scotland is benefitting from it; England and Wales will benefit from it.

Let me give you an example of an 18-year-old constituent who was rendered quadriplegic. He will receive roughly £100,000 per annum for



the lifetime requirement for all his care. Under the current arrangements for a 2.5% discount, that will make up £5.5 million to £6 million over the lifetime of the claimant. Under the discount rate, if it is changed to the new national equivalent, that will make a significant difference; that will make it up to £9 million. Would you be prepared to introduce, in the Civil Liability Bill, the necessary amendment that would allow Northern Ireland people suffering from these injuries to benefit from that?

Karen Bradley: I will have to look into that. What you implicitly demonstrate is that there are different devolution settlements for Wales, Scotland and Northern Ireland. Northern Ireland has a much older devolution settlement that is much more established in terms of how long it has existed for.

Q292 **Ian Paisley:** This was pre-devolution. This was set by the Lord Chancellor in 2001. The new devolution settlement came in 2006 or 2007.

Karen Bradley: I would have to check exactly what the position is in terms of the devolution arrangements, et cetera, but I will consider the point you have made. Would the Committee like a letter or just Mr Paisley?

Ian Paisley: The Committee would enjoy having the letter. I would certainly be happy to share it.

Karen Bradley: We will look specifically at the point you raised.

Chair: It is a rather technical point but an important one.

Q293 **Ian Paisley:** This is another point that I suppose could be technical as well but it is important for constituents. I have a constituent called Corinne Agnew, who was referred for a burns unit emergency surgery in September 2015. Due to another emergency case, she was bumped off the list. She continues to sit on that list and has now been told that her operation will not be for a further 176 weeks. That is from September 2015 to January 2019 at the very earliest.

That case is reminiscent of a number of cases that indicate that our health service in Northern Ireland cannot deal with the cases that are coming forward because decisions are not being taken. Are you able to give us an assurance—and my constituent, Corinne—that you will take these health cases as a priority and ensure that these cases are driven through and that the backlog in Northern Ireland is challenged and reduced?

Karen Bradley: If you would like to write to me about the specifics of the case, we will ensure that the matter is taken up with the Department of Health in Northern Ireland. You are right to make the point that reform is needed in the health service in Northern Ireland. There was the Bengoa review of health in Northern Ireland. Under the confidence and supply agreement, it was agreed that £100 million would be allocated for health transformation, and that work is being done now in line with the Bengoa



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review. On the specifics of the case, it is probably best if you write to us, and we can have that looked into.

Q294 Ian Paisley: Later this afternoon you will be meeting me with representatives of community pharmacy, and you have already alluded to some helpful comments in your response to Mr Shannon about community pharmacies. I am looking forward to the meeting, Secretary of State, but I am not going to walk away having to explain to pharmacists in my constituency and, indeed, across Northern Ireland that nothing can happen until we have a devolved agreement.

Karen Bradley: We have talked about this point earlier. I am looking forward to meeting your community pharmacists too. I am a supporter of community pharmacies. They are very important in my own constituency, but we have to understand the constitutional and legal agreements that are in place in terms of matters like community pharmacies and the funding of them, and the decisions that can be taken. I am very much looking forward to the meeting. I stand ready to do whatever I can, but we have to accept the legal and constitutional limitations.

Q295 Ian Paisley: If you are resistant to taking direct rule powers back here to Westminster, would you consider devolving powers further to the Northern Ireland local government?

Karen Bradley: For example, we have proposals for city deals in both Derry/Londonderry and Belfast. One of the problems we have is that many of the powers that would be devolved to those cities are vested in Stormont and, therefore, the only way they can be given to the councils is if they are brought back to Westminster from Stormont and then devolved to the councils. It is a legal difficulty.

Q296 Ian Paisley: You do appreciate that you came into this job with much aplomb and much celebration, but there is a huge danger, if decisions are not taken quickly and rapidly—by which I mean by the end of this month—of the Northern Ireland Office appearing to be as powerless and as functionless as the current Assembly.

Karen Bradley: I will take the decisions that I can take and that are necessary for me to take to ensure good governance. That is why we are doing the budget. That is why we launched the consultation on setting up the institutions that were agreed in the Stormont House talks. That is why we will continue to work with Permanent Secretaries and others. However, we have to be clear of the legal limitations of what we can do. This is part of the United Kingdom. Her Majesty's Government have a responsibility to the 1.8 million citizens of the United Kingdom who live in Northern Ireland to ensure they have the public services that they rightly deserve.

Q297 John Grogan: Minister, I have two or three quick questions. Is the intergovernmental conference a significant development? It is meeting for the first time since 2007. What is on the agenda?



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Karen Bradley: The agenda has not yet been agreed, but it is a commitment that the UK Government have under strand 3 of the Belfast agreement. We are clear that it will deal with strand 3 matters, as is agreed, but it is right that, in the absence of devolved Government, there should be a meeting of the intergovernmental conference.

Q298 **John Grogan:** The Irish Foreign Minister said earlier in the week that one of the items might be the political situation in Northern Ireland and the absence of devolution at the moment. Would that be on the agenda?

Karen Bradley: It is a matter that I discuss with the Irish Foreign Minister very regularly. It is of concern to the Irish Government that there is not devolved Government in Northern Ireland and there is not an Executive. As co-signatories of the Belfast agreement, we both want to make sure the Belfast agreement is adhered to and is a success.

Q299 **John Grogan:** So that might be discussed in the meeting.

Karen Bradley: As I say, it is a strand 3 part of the Belfast agreement. It will discuss strand 3 matters.

Q300 **John Grogan:** We have touched on the border situation and the European talks, but not in any great detail. Would that come up in this meeting at all?

Karen Bradley: It is very clear under the Belfast agreement. It deals with strand 3 matters: east-west matters that involve the two Governments in terms of our obligations under the Belfast agreement. I do not think Brexit is quite in that category.

Q301 **John Grogan:** It will come up on Friday at the Cabinet meeting. Has the Northern Ireland Office been involved? There is the third solution, the third way, that we are looking forward to hearing about. Has the Northern Ireland Office been involved in that? Do you know what the third way is or are you waiting for Friday to find out?

Karen Bradley: It would not be right for me to comment on what I have or have not seen in anticipation of Friday. It is known publicly that I have been part of the working group looking at the highly streamlined customs arrangements and looking to see how that model of customs arrangement may be able to work for Northern Ireland, ensuring that we meet our commitments under the joint report of no border on the island of Ireland, no border in the Irish Sea, as frictionless trade as possible and an independent trade policy. That is what we are working towards.

Q302 **John Grogan:** Presumably there is also work ongoing on the backstop proposal, just in case it is necessary. How does that differ from remaining in the customs union and the single market?

Karen Bradley: A text was put forward for the backstop, at paragraph 49 of the joint report, by the European Commission. That is not an acceptable text for the UK Government, because it would create a border in the Irish Sea and we are not prepared to accept that. We are working



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on our counterproposal. Let us be clear; the backstop is the insurance policy. None of us want to be in a position where we have to use the backstop. We need to have legal text around the backstop to give that insurance policy but we want to resolve the Irish border and our objectives in terms of our customs arrangements through the overall UK/EU arrangements.

Q303 John Grogan: I have a couple of final questions on citizenship rights. As part of the Good Friday agreement, the good people of Northern Ireland can choose to be either British citizens or Irish citizens, or indeed both. The Irish citizens there will still continue to enjoy some rights as EU citizens. Are we clear yet on exactly what rights they would be enjoying as EU citizens?

Karen Bradley: We have been clear again in the joint report that there will be no diminution in rights.

Q304 John Grogan: What sort of rights?

Karen Bradley: The rights that are enjoyed today by people who are entitled to self-determine whether they wish to have a United Kingdom passport or an Irish passport, or both. That will not change as a result. That is a commitment again in the joint report.

Q305 John Grogan: Could there be voting rights?

Karen Bradley: Again, yes, we have agreed the common travel area will continue. Irish nationals have always had voting rights in the United Kingdom that other EU nationals have not enjoyed in the same way, as I think Maltese residents do as well.

Q306 John Grogan: Finally, this Committee has been considering the issue the other way round, really, of Irish citizens who want to be British citizens and who live in Northern Ireland. Is the current situation acceptable? The Irish are slightly more generous than we are in terms of fees that have to be paid, and some people would argue that we should extend the right to British passports to all residents of Northern Ireland who were born on the island of Ireland, and that would give them equivalence.

Karen Bradley: I know that was a specific point that was discussed at length when the Immigration Minister gave evidence. It is one of the other matters that I can assure you I have discussed with the Immigration Minister.

Q307 Chair: Can I ask what the outcome of that discussion was? The issue is about more than a little bit of money; it is £1,300, plus the naturalisation procedure. That seems a little churlish, to put it mildly, in relation to people who are committed to where they live and, in applying for a British passport, presumably identify themselves, in part at least, as British.



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Karen Bradley: As I say, I have discussed the specific point with the Immigration Minister. The Home Office is looking at that point. I am sure the Home Office will write to the Committee when it has done that work.

Q308 **Chair:** Excellent. The Committee's general sense is that this inequity that applies to the island of Ireland is something that we could resolve fairly easily.

Karen Bradley: That was very clear from the evidence session.

Q309 **Nigel Mills:** I want to go back to your answer, Secretary of State, to Mr Grogan about the border. You said that the joint report guaranteed no border on the island of Ireland. I think we guaranteed no hard border.

Karen Bradley: We said that there would be no new physical infrastructure and no related checks and controls at the border.

Q310 **Nigel Mills:** Is that what "hard border" means: no infrastructure—

Karen Bradley: No new physical infrastructure.

Q311 **Nigel Mills:** —and no checks and controls at the border? It is just that the language agreed in the withdrawal Bill amendment said "no checks or controls" but did not say "no checks or controls at the border". Is it your understanding that we meant no checks or controls at the border but that some customs checks at the factory or warehouse somewhere in Belfast would be okay if that was part of the deal?

Karen Bradley: The joint report is very clear but I am not going to pre-empt or second-guess what will be agreed at Chequers on Friday. These are the matters that will be discussed there.

Q312 **Nigel Mills:** However, your understanding is that the Bill does not rule those out.

Karen Bradley: As I say, we will discuss those matters at Chequers. We also all voted—well, some voted—for the withdrawal Act, which is now an Act of Parliament.

Q313 **Lady Hermon:** At the Chequers meeting on Friday, what are your expectations for success and will there be, unusually, collective responsibility shown by all Cabinet members afterwards?

Karen Bradley: I am not sure that those are questions I can answer, but suffice to say that I am looking forward to a day where we can look at our future partnership and the future arrangements we want to have with our European Union friends and neighbours, making sure that we comply with the commitments we made in the joint report.

Q314 **Lady Hermon:** Could I just repeat the question? What are your expectations of success on Friday in the Cabinet meeting at Chequers?

Karen Bradley: A White Paper is something you can expect to see next week.



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Q315 **Lady Hermon:** Yes, we have heard all about the White Paper. Can I just repeat the question?

Karen Bradley: That is what we are discussing at the Chequers meeting: the White Paper.

Q316 **Lady Hermon:** Yes, and will there be collective responsibility that everybody in the Cabinet would actually agree to whatever comes out of that?

Karen Bradley: I do not think I am able to answer that question, I am afraid.

Q317 **Lady Hermon:** You have no expectation that there will in fact be collective responsibility.

Karen Bradley: I do not think I am able to answer that question.

Q318 **Lady Hermon:** The message is that it continues as a very dysfunctional Cabinet.

Karen Bradley: It would not be right for me to speculate on what may or may not be said at a Cabinet meeting that is happening in two days' time.

Q319 **Lady Hermon:** That is the message that is being sent out by the UK to the world.

Karen Bradley: No, the message from the UK Government is that we do not comment on private meetings, and the Cabinet is a private meeting.

Q320 **Lady Hermon:** It would be extraordinarily helpful if we could have collective responsibility in the Cabinet. This is a serious, huge, momentous time for the country, particularly for Northern Ireland.

Karen Bradley: I am sure everyone will have heard those points.

Chair: I am afraid we have reached the point at which to—

Q321 **Lady Hermon:** I just want to hear whether in fact the Secretary of State supports the proposal that was made at the weekend about a bridge between Northern Ireland and Scotland.

Karen Bradley: It is a point that has been raised with me on a number of occasions and I am sure that, if someone wanted to come forward with their proposals, we would be happy to look at them.

Q322 **Lady Hermon:** You are happy to welcome that.

Karen Bradley: I would be happy to look at the proposals for a bridge between Scotland and Northern Ireland.

Q323 **Lady Hermon:** But you are non-committal on that point.

Karen Bradley: Let someone come forward with some proposals.

Chair: Excellent. Secretary of State, thank you very much indeed. You



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have been very patient with us and very frank. As always, it is a pleasure to see you today.