



## Defence Committee

Chair, Rt Hon Tobias Ellwood MP

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*D. Sealy f. St.*

Further to our letter of 6 May 2020, to which we have not yet received a reply, we have a number of other questions about the Overseas Operations (Service Personnel and Veterans) Bill following recent reports of concerns expressed to you by the Judge Advocate General about the Bill and our discussions with other stakeholders.

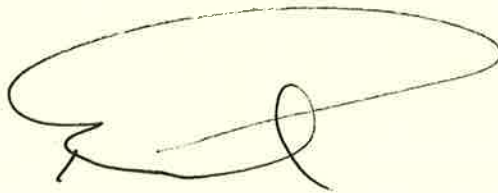
We and those with whom we have discussed the Bill share your aims of protecting serving personnel and veterans against vexatious or unnecessary investigations and prosecutions, while maintaining the United Kingdom's and the Armed Forces' tradition of championing International Humanitarian Law and calling for accountability for international crimes. But we are concerned that the Bill may not be an effective way of achieving those aims. We would therefore be grateful for answers to the following questions:

1. We understand the Judge Advocate General was not consulted about the drafting of the Bill. Why not?
2. Who was consulted during the drafting of the Bill? Who are you consulting over the equivalent Bill for Northern Ireland?
3. On what grounds have you chosen five years as the cut-off point?
4. We have been told that the Bill's presumption against prosecution after five years may be seen by some as an indication of unwillingness to carry out domestic war crimes prosecutions, which could give rise to increased attempts to bring cases against British service personnel before the International Criminal Court. How do you respond to this argument?
5. Why do the established public interest considerations that the Crown Prosecution Service follows when deciding on the prosecution of genocide, crimes against humanity, war crimes and torture cases, together with the existing Attorney General consent requirements under the Geneva Conventions Act 1957 and the International Criminal Court Act 2001, not provide a sufficient safeguard against vexatious prosecutions?
6. Do you agree that the Bill's provision creating a presumption against prosecution of serious offences after a specified time within domestic legislation will not prevent the

International Criminal Court from undertaking their own investigations and bringing prosecutions?

7. Have you considered excluding from the presumption international crimes or those potential prosecutions that could engage the jurisdiction of the ICC or the exercise of jurisdiction by other States, if not pursued by a UK prosecutor?
8. Sexual Offences are not covered by the Bill. What will happen when Service personnel are involved in one incident and some but not all of them are accused of sexual offences?
9. What effect do you expect the Bill to have on the number and length of investigations, and the ease with which reinvestigations can be started?
10. What account have you taken of the recently published ICRC/Geneva Academy Guidelines on Investigating Violations of International Humanitarian Law as a tool for establishing processes before, during and after operations that give peace of mind to armed forces personnel who can trust in the system having ensured that all evidence has been gathered and analysed and acted upon if needed?

These are important issues in the House's and the Committee's consideration of the Bill and we would therefore be grateful for a response before the Summer recess.

A handwritten signature in black ink, consisting of a large, loopy initial 'T' followed by a series of connected loops and a final downward stroke.

**Rt Hon. Tobias Ellwood MP**  
**Chair of the Defence Committee**