



House of Commons
Northern Ireland Affairs
Committee

**Addressing the Legacy
of Northern Ireland's
past: the Government's
New Proposals:
Government Response
to the Committee's
Third Report of Session
2019–21**

**Third Special Report of Session
2019–21**

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Northern Ireland Affairs Committee

The Northern Ireland Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Northern Ireland Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel).

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Publication

Committee reports are published on the Committee's website at www.parliament.uk/niacom and in print by Order of the House.

Committee staff

Mems Ayinla (Second Clerk), Nick Beech (Clerk), John Hitchcock (Committee Operations Manager), Simon Horswell (Committee Specialist), George James (Committee Specialist), Ffion Morgan (Assistant Clerk), Sam Nariani (Committee Specialist), Chloe Smith (Apprentice Inquiry Manager), Kelly Tunnicliffe (Committee Operations Officer), Rebecca Usden (Committee Specialist) and Tim West (Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Northern Ireland Affairs Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 2173; the Committee's email address is northircom@parliament.uk.

You can follow the Committee on Twitter using [@CommonsNIAC](https://twitter.com/CommonsNIAC).

Third Special Report

On 26 October 2020 the Northern Ireland Affairs Committee published its Third Report of Session 2019–21, [Addressing the Legacy of Northern Ireland’s Past: the Government’s New Proposals \(Interim Report\)](#), (HC 329). The Government’s response was received on 13 January 2021 and is appended to this report.

Appendix: Government Response

Addressing the Legacy of Northern Ireland’s Past: UK Government Response to NIAC Inquiry interim report

I am writing following the publication, on 26 October, of the Northern Ireland Affairs Committee’s interim report, “Addressing the Legacy of Northern Ireland’s Past: the Government’s New proposals—Third Report of Session 2019–21.”

I would like to take this opportunity to thank the Committee for the work they have taken forward and to recognise the contributions of the many witnesses and others who have provided written or oral evidence, particularly given the challenging circumstances of the past year.

The Government will continue to take these contributions and the work of the Committee into account as we move forward in delivering on our commitment to deal with the legacy of the Troubles in a way which focuses on reconciliation, delivers for victims, and ends the cycle of re-investigations that has failed victims and veterans alike.

The Committee will be aware that legacy reform remains a matter of ongoing sensitive policy development and engagement. While it is clear that there is room for further constructive dialogue in a number of areas, there are also a number of key issues on which we are in agreement.

Information recovery

The Government welcomes the conclusions of the Committee that it “is right to recognise the importance of providing families that seek it with as much information as possible about the death of a loved one” and its observation that “many families seek not redress, but merely to be treated with respect and to obtain information”.¹ The Government has always been clear we want to see information recovery at the heart of any new legacy system.

It is clear that the current system for releasing Troubles-related information is not working, and the divisive cycle of reinvestigations and civil action as a primary route for truth recovery is failing to obtain answers for a majority of victims and families. As highlighted in some of the written submissions to the Committee, this focus on investigations is also hindering wider reconciliation in Northern Ireland. As pointed out by the Committee, many witnesses have said the likelihood of prosecutions at this stage is slim,² including

1 Addressing the Legacy of Northern Ireland’s Past: the Government’s New Proposals (Interim Report) 21 October 2020, page 27

2 Addressing the Legacy of Northern Ireland’s Past: the Government’s New Proposals (Interim Report) 21 October 2020, page 17

the Northern Ireland Retired Police Officers Association who have noted that “in the vast majority of cases it is very unlikely that a new investigation after several decades will produce a better outcome in the absence of genuine and significant new developments”.³

With the passage of time it becomes increasingly challenging for investigations to satisfy the evidential thresholds necessary for prosecution. The Committee will be aware that some of the most significant and resource-intensive investigations of recent times are yet to result in prosecutions. In October 2020 the Northern Ireland Public Prosecution Service set out its decision to direct no prosecution against four persons referred to it by the multi-million pound Operation Kenova investigation, on the grounds that there was “insufficient evidence to provide a reasonable prospect of conviction.” Indeed, Lead Investigator for Operation Kenova and former Chief Constable Jon Boutcher, has discussed with the Committee the need to be “realistic about the practicability and utility of prosecutions”,⁴ stating during the oral evidence session on 2 September that it would be an “act of vandalism” to delay providing the truth to families because of prosecutions which are delayed year on year. The Government notes the Committee’s suggestion that the “Government can learn lessons from Operation Kenova when developing its own legacy system”.⁵

The Government believes it is right to focus on information recovery and providing answers to those with questions about what happened to their loved ones. Committee members have highlighted the different approaches suggested for information retrieval, from the proposed Independent Commission for Information Retrieval to Operation Kenova.⁶ It is important that the Government carefully considers all options and works through all the concerns expressed, both to this Committee and through the Government consultation, to ensure that any information recovery process is fit for purpose and maximises the chances of providing victims and families with as much information as possible about the circumstances of the death of a loved one—before the opportunity to do so is lost. Victims and survivors have waited too long—with many sadly passing on without ever knowing the truth—which is why the Government is determined to get this right.

Armed Forces personnel and veterans

During the oral evidence session of 15 July, the Committee heard from the representatives of various veterans groups that many veterans of the Troubles have been repeatedly investigated for events that happened decades ago, often on the basis of little credible evidence and despite being previously exonerated in some cases. The Committee heard how deeply distressing this was to these veterans, many of whom are sick or elderly, or both.

The UK Government has introduced the *Overseas Operations (Service Personnel and Veterans) Bill* in order to provide greater certainty for armed forces personnel and veterans in relation to investigations and vexatious claims arising from increasingly historical

3 Addressing the Legacy of Northern Ireland’s Past: the Government’s New Proposals (Interim Report) 21 October 2020, page 17

4 Addressing the Legacy of Northern Ireland’s Past: the Government’s New Proposals (Interim Report) 21 October 2020, page 16

5 Addressing the Legacy of Northern Ireland’s Past: the Government’s New Proposals (Interim Report) 21 October 2020, page 24

6 Addressing the Legacy of Northern Ireland’s Past: the Government’s New Proposals (Interim Report) 21 October 2020, page 22

events on military operations outside of the United Kingdom. The Bill also looks to the future, providing a better legal framework for dealing with allegations or claims arising from any future overseas conflicts, recognising the unique burden and pressures placed on our personnel.

The Government is sincere and unstinting in its gratitude to those who served their country—whether overseas, or in helping to uphold the law in Northern Ireland during the long years of the Troubles—and welcomes the Committee’s recognition that it is “right to recognise the unique circumstances in Northern Ireland by decoupling Northern Ireland legacy issues from the Overseas Operations (Service Personnel and Veterans) Bill”.⁷ The Government remains committed to delivering on its commitments to NI veterans, and has been clear that we will do this as part of a wider package to address legacy issues in Northern Ireland. Dealing with the legacy of the past in Northern Ireland must address the needs of veterans alongside the needs of victims through an approach which focuses on reconciliation and that ends the cycle of investigations that has failed them both alike.

Importance of Engagement

The Committee has noted that: “to ensure that its new legacy proposals are fit for purpose and capable of drawing support from all communities, the Government must conduct a transparent and meaningful consultation with victims’ groups, Northern Ireland political parties and, to the extent necessary, the Irish Government before publishing legislation”.⁸ This Government is in complete agreement and has always been clear that it is committed to working with these stakeholders and all parts of the community in Northern Ireland, and beyond, as part of any process of legacy reform.

In particular, the Committee notes that: “the Irish Government will have a role to play in parts of a new legacy process. It will need to maintain a collaborative approach to help resolve legacy cases, which we heard has not always been the case in the past”.⁹ The Government wishes to reaffirm its strong commitment to working in partnership with the Irish Government in addressing legacy issues in Northern Ireland.

The Government has been clear that it wants to work towards a way forward which can command the broad consensus necessary for the effective delivery and implementation of any legislation. The Committee has recognised the challenges presented by the ongoing COVID-19 situation, both in terms of departmental resource and public engagement, whilst questioning whether more could have been done to engage with stakeholders via “digital platforms”.¹⁰ Whilst the Government’s priorities were rightly focused on the response to the pandemic, we also recognised that it would be difficult to engage substantively with some key stakeholders in the effective and sensitive manner necessary. Notwithstanding these challenges, which understandably affected progress, engagement on legacy issues via videoconferencing and other technology has taken place and continues to take place—and remains a key focus for us in moving forwards.

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8 Addressing the Legacy of Northern Ireland’s Past: the Government’s New Proposals (Interim Report) 21 October 2020, page 14

9 Addressing the Legacy of Northern Ireland’s Past: the Government’s New Proposals (Interim Report) 21 October 2020, page 10

10 Addressing the Legacy of Northern Ireland’s Past: the Government’s New Proposals (Interim Report) 21 October 2020, page 6

Conclusion

These are important, sensitive, and highly complex issues—which is why they remain largely unresolved despite more than 20 years of extensive public discourse and debate. Despite the real challenges this brings, the Government remains determined to make progress on legacy issues, and has always been clear that it will engage with the Irish Government, the Northern Ireland parties, and civic society, including victims groups, as part of this process. The Government remains equally committed to working collaboratively with the Committee and, as we intensify engagement with key stakeholders going into the new year, I look forward to further constructive dialogue with you and your colleagues in the coming months—including sharing further details on the Government’s proposals in due course.