



The Rt Hon Hilary Benn MP

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Lord Alton of Liverpool

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By email: JCHR@parliament.uk

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Dear Lord Alton,

Thank you for inviting me to discuss the Northern Ireland Troubles Bill with your Committee on 22 April and for your follow up letter of 21 May. This is a deeply important piece of legislation that will enable victims and bereaved families across the UK to seek information through a reformed Legacy Commission. As we approach three decades since the Good Friday Agreement, this Bill delivers on one of its final aims.

I am very grateful for the work of you and your Committee in scrutinising the Bill. When we spoke, I committed to write to you with an analysis of the Troubles Bill's interaction with the Duty of Candour, the relationship between the Windsor Framework and EU Victims' Directive classification of a close family member, and a response to the remarks raised by UN Special Rapperateur Bernard Dehaime.

In your follow-up letter, you also requested information regarding the timing of the remedial order and the package of Committee stage amendments. I am pleased to provide clarity on these matters as well within this response.

Extending the Duty of Candour to the Legacy Commission

In our discussion your Committee raised the question of extending the Duty of Candour to the Legacy Commission. Currently the work of the Legacy Commission remains outside the scope of the Duty of Candour while the Public Office (Accountability) and Northern Ireland Troubles Bills continue their passage through Parliament, are subject to amendment and it is unclear as to which Bill will receive Royal Assent first.

I fully support the principles of the Duty of Candour and I am considering how this could be applied to the Legacy Commission, noting the types of inquiries that are already within scope of the duty. As I'm sure you are aware, Part 7 of Schedule 1 to the Public Office (Accountability) Bill confers a regulation-making power that allows for the extension of this duty in respect of other types of investigations, a power the government intends to use broadly. It is important that such an extension is only made once we have stable legislation which will not change further, with unforeseen consequences.

Definition of a close family member

Your Committee noted that the current definition of 'close family member' (Clause 93) excludes grandchildren. The Committee raised that this might conflict with the non-diminution obligations of the Windsor Framework and the EU Victims' Rights Directive.

Since I appeared before the Committee the Supreme Court has helpfully clarified that Article 2 of the Windsor Framework and the EU Victims' Directive do not impose any relevant obligations, noting the nature of the specific rights protected by that Directive. Nevertheless, I am confident that the Bill does make extensive and appropriate provision for family members to participate in investigations.

There is no exclusion of grandchildren as the Bill allows the Commission to accept referrals from other relatives, such as grandchildren, if there are no close family members. As I stated in the evidence session, the Government believes that this is a balanced approach, focusing in the first instance on enabling, by default, more immediate family members to request an investigation by the Commission, whilst providing sufficient flexibility to cater for different familial circumstances.

For example, it would not, in the Government's view, be appropriate for the Commission to accept a request for an investigation from a 'non-close' family member, where such a request may be against the wishes of a 'close family member'.

Remarks from the UN Special Rapporteur

Thank you also for sending my office Bernard Duhaime's remarks from the 20th April 20th parliamentary session. I welcome Professor Duhaime's recognition that the

Troubles Bill provides a “*legislative opportunity to put in place a legacy mechanism that is genuinely victim-centered, genuinely independent, and genuinely compliant with the [United Kingdom’s] international obligations.*” You’ll be aware of the deep, longstanding criticisms expressed by Professor Duhaime’s predecessors regarding the previous Government’s legacy legislation, so these comments are significant in highlighting the changes embodied by the Joint Framework and Troubles Bill.

I recently had the opportunity to meet with Mr Duhaime and to discuss his remaining reservations directly. The UK Government takes its human rights obligations very seriously and I have consistently stated our commitment to ensuring that the reformed legacy mechanisms are fully ECHR compliant. Mr Duhaime made a number of specific points and I attach Annex A setting out the Government’s position in respect of these.

The Remedial Order

As you noted in your letter, the Supreme Court has now handed down its judgment in the *Dillon* case, finding wholly in the Government’s favour. Our appeal was successful on both ECHR and Article 2 Windsor Framework grounds. Specifically in relation to the ICRIR, the Supreme Court found that its disclosure regime is compatible with ECHR rights, and confirmed the primacy of the Executive in matters of national security. The court also found that the ICRIR is capable of providing effective opportunities for victims and survivors to participate in its investigations, noting that what is required is often determined on a case by case basis.

As I set out when I was last before the Committee, I made the decision to delay the passage of the Remedial Order in the House of Lords because it was clear that there was a view amongst Peers that we should await judgment in *Dillon*. The Supreme Court has now put it beyond doubt that the Government had the legal basis on which to bring the Remedial Order, acknowledging that I had abandoned the appeal against the orders of the NI Court of Appeal judge.

I remain firmly of the view that the Remedial Order, although not delivered as quickly as I had hoped, is the swiftest and most appropriate vehicle to ensure that the provisions of the Legacy Act - immunity and the ban on civil claims - which have been found to be in contravention of our human rights obligations and have no support in Northern Ireland, can be removed from the statute book. This pace is necessary in order to rebuild the trust of communities across Northern Ireland who are opposed to the idea that the terrorists who murdered their loved ones could be granted immunity from prosecution if they came forward to the Commission.

The Committee will be aware that we await the scheduling of the Committee Stage of the Troubles Bill. Given the passage of the Legacy Act was approximately 14 months, and we anticipate a similar timeframe for the Troubles Bill, the Remedial Order clearly provides the swiftest route for the Government to deliver on this key

manifesto commitment.

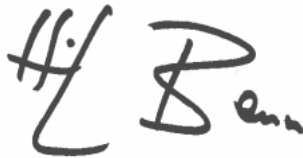
My officials are engaging with the Lords Whips' office to secure a debate in the House of Lords at the earliest convenient opportunity.

Committee Stage Amendments

When the amendments are formally tabled, I commit to writing to the Committee directly to provide your Committee with details of the amendments, as well as sharing and publishing a supplementary ECHR Memorandum alongside the amendments, in line with standard practice. This memorandum will provide a thorough assessment of the human rights implications of our proposals.

Once again, I would like to thank you and the Committee for taking the time to consider the Troubles Bill, and I look forward to working with you and your colleagues further during passage.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'H. Benn', written in a cursive style.

**THE RT HON HILARY BENN MP
SECRETARY OF STATE FOR NORTHERN IRELAND**

Annex A - Response to Remarks raised by Bernard Duhaime

Remark by Bernard Duhaime	Government Response
Genuine independence of the Legacy Commission.	As I set out in the evidence session, the Commission has access to any and all information it requires and will be able to publish as much of that as possible, subject to proportionate safeguards, which are necessary because even historic information can pose a direct risk to life and safety today or threaten our national security. In <i>Dillon</i>, the Supreme Court confirmed the primacy of the Executive in matters of national security. The role of Government, like in existing legacy processes, can be challenged through the courts.
An explicit reparations framework	Such a mechanism already exists through the Troubles Permanent Disablement Payment Scheme. The scheme is scheduled to remain open until August 2026, and was established to provide recognition for individuals who sustained permanent injuries through no fault of their own. It specifically addresses the wide-ranging impact of disablement, including the associated financial burdens on the injured parties and their families. While the Scheme was initially delivered by Westminster during the suspension of the devolved government, responsibility for its administration has now transferred to the Northern Ireland Executive. Any broader support for victims falls under the remit of the Northern Ireland Executive as a devolved matter.
The prosecutorial accountability question	Veterans groups have repeatedly made clear that they do not seek immunity for veterans; but rather they seek a fair recognition of the difference between the exercise of legitimate authority and acts of illegitimate violence. The tests that will be applied to any prosecution decisions will not change under the Trouble's Bill.
Meaningful victims' participation	Inspired by the successful Operation Kenova Victims Focus Group, the Victims and Survivors Advisory Group is a key part of the reforms. The group's primary objective is to ensure that the functions under the Bill are exercised in a manner that upholds the rights, interests, and needs of victims, survivors, and their families. By law, the Commission and the Secretary of State must consider the group's advice when exercising their functions. The group will have a balanced membership across the communities in Northern Ireland and will include both victims and survivors themselves, and can include those who were members of the armed forces or a police force.

Adequate resourcing of the civil litigation pathway.	Through the Remedial Order, this Government will address Court findings which found various provisions of the Legacy Act to be incompatible with the ECHR, including the immunity provisions and the bar on civil cases. The provision of legal aid more generally is a devolved matter for the Northern Ireland Executive.
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