



# Defence Committee

Chair, Rt Hon Tobias Ellwood MP

Committee Office, House of Commons, London SW1A 0AA

020 7219 6872 defcom@parliament.uk www.parliament.uk/defcom

Rt Hon Ben Wallace MP  
Secretary of State for Defence  
Ministry of Defence  
Whitehall  
London  
SW1A 2HB

6 May 2020

Dear Secretary of State,

Thank you for the Department's response of 22 April to the Committee's report from the last Parliament on *Drawing a line – Protecting Veterans by a Statute of Limitations*, which was published in July last year. We welcome the Government's overall approach, although we regret the decision to have two separate Bills to tackle these issues, and have a number of questions on the legislation and the plans for taking it forward:

- 1) Under the Overseas Operations (Service Personnel and Veterans) Bill, a decision to prosecute will be made after a prosecutor has weighed up various factors and has secured the Attorney General's consent: what is your estimation of the likelihood of successful legal challenge if that consent is refused?
- 2) Similarly, how confident are you that the factors outlined in the Bill are comprehensive enough for a prosecutor to take a decision whether or not to prosecute? Why have sexual offences been treated in a different way in the Bill?
- 3) The Northern Ireland Secretary's Written Statement of 18 March, which makes a commitment to "ensuring equal treatment of Northern Ireland veterans and those who served overseas", also states that:

"Only cases in which there is a realistic prospect of a prosecution as a result of new compelling evidence would proceed to a full police investigation and if necessary, prosecution. Cases which do not reach this threshold, or subsequently are not referred for prosecution, would be closed and no further investigations or prosecutions would be possible - though family reports would still be provided to the victims' loved ones. Such an approach would give all participants the confidence and certainty to fully engage with the information recovery process."

How similar will these legislative provisions be to those in the Overseas Operations Bill? Can you confirm that you have asked the Northern Ireland Office to make a commitment that service personnel and terrorists will not be treated equally in any way?

- 4) We recommended that relevant legislation be remitted to an ad-hoc Select Committee for its Committee Stage, as is customary for Armed Forces Bills. Given that you have been unable to fulfil our recommendation to provide time for the Committee to conduct

pre-legislative scrutiny, will you make a commitment to this recommendation for both the Overseas Operations Bill and the Bill, yet to be introduced, covering Northern Ireland?

5) What is the Government's strategy in the event that the European Court of Human Rights rules that the new legislative regime is contrary to our Convention obligations? What discussions have you had with the International Criminal Court?

6) Will legislative consent be sought from the Northern Ireland Assembly for any legislation incorporating 'New Decade New Approach' and legacy reforms, including this new arrangement? What discussions has the Government had with the parties in the Assembly about whether they would accept the proposed arrangement?

I am copying this letter to the Rt Hon. Brandon Lewis MP, Secretary of State for Northern Ireland, and to Simon Hoare MP, Chair of the Northern Ireland Affairs Committee.

P.P. Yours sincerely,



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