

A: Summary

This is the Healing Through Remembering (HTR) response to the Northern Ireland Affairs Committee (NIAC) Call for Evidence on “Addressing the Legacy of Northern Ireland’s past: The UK Government’s New Proposals”.

As an organisation that has spent two decades considering and promoting the need for a society-wide approach to dealing with the past, Healing Through Remembering has major concerns and reservations about the Government’s Proposals.

Crucially, it is unclear how these proposals relate to the *Stormont House Agreement* and the range of institutions it envisages. Based on our extensive experience and research, Healing Through Remembering wishes to emphasise that legacy proposals cannot stand alone: they must always be developed and understood as part of a wider, long-term process of ‘dealing with the past’. This observation and all of the other comments included in this response are offered in a constructive, open spirit, with a view to contributing positively to that wider, long-term process. In summary, Healing Through Remembering finds that:

- These proposals give primacy to the needs of ‘veterans’ over and above any other parties including victims and survivors. As a result, they cannot achieve independence, balance and openness. Furthermore, based on our experience, research, and engagement to date, Healing Through Remembering does not believe these proposals can meet the needs of victims, survivors and their families.
- The *Stormont House Agreement* is imperfect, but it was devised and developed collectively by the political parties and therein lies its strength. In stark contrast, these proposals are made by one party to the conflict and the peace. This unilateral action undermines the core of the *Stormont House Agreement*, insofar as it constitutes a collective *Agreement*.
- Rather than promoting reconciliation, these proposals damage it and undermine the building of relationships and a future that all can share. They are seen by many as the British authorities putting first the needs and concerns of the British Army and protecting State forces over and above the needs of all victims and survivors of the conflict.
- This proposal does not resolve the questions highlighted in our consideration of the *Stormont House Agreement*, of how to distinguish between the important issues of Justice and Truth Recovery, or how to ensure that each is pursued to the greatest extent possible through a meaningful and coherent legacy process.
- Substituting “swift examinations” for “re-investigations” indicates a lack of equity in the system, as inevitably some cases will receive less intensive scrutiny than merited.
- There is a false assumption and implication that conflict-related investigations are inherently ‘vexatious.’ Healing Through Remembering rejects this implication, since the current legal process contains safeguards against malicious prosecution.

HTR is committed to working constructively to enable the development of approaches to dealing with the past that truly support and meet the needs of society, both in remembering, and in healing

and collectively moving towards a viable and peaceful future. Healing Through Remembering remains open to and ready for further engagement in relation to any questions that may arise from this process, and remain willing to assist in whatever the organisation can.

B: Background to this response

1. This is the Healing Through Remembering (HTR) response to the Northern Ireland Affairs Committee (NIAC) Call for Evidence on “Addressing the Legacy of Northern Ireland’s past: The UK Government’s New Proposals”.
2. As an organisation that has spent two decades considering and promoting the need for a society-wide approach to dealing with the past, Healing Through Remembering welcomed the *Stormont House Agreement* as a new opportunity to work towards a better, more secure future founded in equality and good relations. While identifying specific issues and concerns in the Agreement Proposals, HTR also reiterated a commitment to engaging constructively in this process and any next steps, and to maximising this opportunity.
3. Healing Through Remembering has major concerns and reservations about the Government’s new Proposals and offer this response to the Call for Evidence in a constructive way so that we can all work together to find the best way to deal with the legacy of the conflict in and about Northern Ireland.
4. As the UK Government’s proposals of March 2020 were a revision of the dealing with the past elements of the *Stormont House Agreement* this response includes other significant aspects on any proposals for legacy issues which, as abundant evidence shows, are as relevant to your considerations as the answers to the specific questions.
5. In 2016 HTR produced a *Stormont House Agreement Discussion Resource* (HTR 2016) to facilitate understanding of the *Agreement*: this was widely disseminated to assist groups and individuals to follow the complexity of the proposals in any consideration or discussion. Healing Through Remembering offers this to the NIAC as an easy visual aid while considering these difficult and contentious issues.
6. In the resource the comments for consideration on each section do not present the views of any one constituency but rather are open and wide issues – this has enabled the resource to be used by groups and individuals with widely differing views on the topic, and by conflict resolution practitioners. It is regularly used by academics and community organisations. (During the NIO Consultation on the *Stormont House Agreement* legislation HTR used this resource to develop “*A Simple Aid to Responding to the NIO Public Consultation on ‘Addressing the Legacy of Northern Ireland’s Past’*” (HTR 2018). This enabled HTR to show how concepts in the Consultation originated in the *Stormont House Agreement* and had progressed into the draft Bill so that better informed responses could be made – from all sectors – to the NIO Consultation.)

C: Introduction to Healing Through Remembering & Reasons for Submitting Evidence

1. Healing Through Remembering (HTR) is an independent initiative and organisation. It comprises a diverse membership with different political perspectives, all working on a common goal, which the organisation has agreed is best described as “how to deal with the legacy of the past relating to the conflict in and about Northern Ireland, and in so doing, build a better future for all.”

The HTR membership includes people from loyalist, republican, and security force backgrounds as well as individuals from different religious and cultural backgrounds, victims/survivors groups, academics, community activists, and others. (See section E for the biographies of board members which are indicative of the diversity of HTR membership.)

2. This response to the NIAC Call for Evidence on “Addressing the Legacy of Northern Ireland’s Past: The UK Government’s New Proposals” has been developed and agreed by the HTR Board (see Section E) on behalf of the wider organisation.
3. The matters raised relate closely to issues on which HTR has worked extensively for 20 years. In 1999 Healing Through Remembering commenced a wide-ranging community-led discussion around how to remember events connected with the conflict in such a way as to contribute to healing the wounds of society. On the basis of this process, HTR was established in 2001.

That consultation identified five over-arching themes that could give shape to the challenging prospect of dealing with the past in Northern Ireland: *Storytelling; Truth Recovery and Acknowledgement; Commemoration; a Living Memorial Museum; and a Day of Reflection*. The consultation and themes are outlined in the *HTR Report 2002*. These were the first public consultation and produced report on the legacy of the past.

Since then, HTR has conducted extensive consultation, research, and engagement around these themes including conferences, exhibitions, site visits, and other local, regional, and international networking. Over the years, the organisation has consistently found that all five strands of activity identified in 2001 remain relevant, and on this basis has produced a range of publications and resources that identify, define, and discuss the key issues in detail.

4. From 2007-2009, HTR along with many stakeholders from across society, participated in the engagement that occurred around the *Consultative Group on the Past*. Healing Through Remembering witnessed the painful and premature collapse of that process in 2009 and has followed closely the subsequent developments. These have included notably: the suspension of the *Historical Enquiries Team*, the launch of the *Together: Building a United Community* strategy, the establishment of the *Stormont House Agreement* and the *Fresh Start* Implementation Plan, the Lord Chief Justice’s announcement of a feasible approach for carrying out outstanding historical inquests, the NIO Consultation on Legacy; the UK

Government's March 2019 proposals and now the NIAC Call for Evidence. At the same time, HTR has continued to engage across its networks in discussions and debates around dealing with the past that have been ongoing in different places and parts of society.

5. This body of work and experience is evidence of demand and need that exists across society for a better way for dealing with the past. For communities, the seriousness of this issue and the urgent importance of finding satisfactory ways to meet this demand cannot be overstated.
6. All of the materials produced by HTR over this whole period are available for download on the Healing Through Remembering website. Key items that have specific relevance to this Call for Evidence are highlighted in this response, listed in the bibliography (section H) but due to the size and format restrictions of the call they cannot be appended to this document. They are available at: www.healingthroughremembering.org/resources
7. This response by HTR to the NIAC Call for Evidence is informed by the widespread engagement, research, and documentation outlined above.
8. All of the comments included in this response are offered in a constructive, open spirit. HTR has demonstrated by its long track record of work in this area that it is committed to working constructively to enable the development of approaches to dealing with the past that truly support and meet the needs of society, both in remembering, and in healing and collectively moving towards a viable and peaceful future.
9. The Board of Healing Through Remembering is open to and ready for further engagement in relation to any questions that may arise from this process, and remain willing to assist in whatever ways the organisation can.

D: Key observations

Before outlining the responses to the specific questions posed in the Call for Evidence, Healing Through Remembering wishes to register the following key observations and concerns, which the organisation believes are fundamental to any discussion on legacy proposals.

1. **The moral imperative for action that underpins *why* policy development is needed on legacy issues:** The *Stormont House Agreement* provides a framework for dealing with some aspects of the many legacies of the conflict, with which civil society can engage and work constructively. Healing Through Remembering welcomes the Agreement, and wishes to emphasise a commitment to supporting an appropriate process for dealing with legacy issues. In doing so, Healing Through Remembering wishes to draw attention to the moral imperative that weighs on our society, and in particular our leaders, to rise to the challenge of dealing with the past.

When people speak about the conflict in and about Northern Ireland, the term 'The Past' is euphemistic: it collapses the complexity, weight, and importance of the different issues at stake into a deceptively simple label. This happens in ordinary conversation; however, it has a distancing effect: it enables us to become removed from the gravity and life-changing seriousness of the events. It softens the impact of the reality of the immense pain and hurt involved. And it blurs the detail of complicated issues such as truth, justice, acknowledgement, commemoration, reparations, storytelling, education, etc., under discussion.

Recognising that such neat labels belie and can undermine the complexity of this work underlines the importance of the need for careful and clear terminology.

For this reason, in the context of any next steps, it needs to be made explicitly clear – and explicitly understood – *why* any proposed legislation and policy development is *required*.

At Healing Through Remembering, having worked at the grassroots level in this region and having examined and learned from international experiences, the organisation knows that dealing with past is a moral, ethical, social and political responsibility. Moreover, it is inseparable from the process of building for the future.

Our society today comprises the people, places, events, beliefs, institutions, and material culture that originated in and have risen up through our past. We are building our future *with and amongst ourselves*, for our children and for the new society that is constantly emerging as new people and ideas take root in our communities. That future must be better than the destructive, divided, secretive, painful, and traumatic past we have survived.

We must acknowledge the people that have carried the greater burden of this pain, silence, and trauma. We must agree and deliver outstanding reparations – whether via financial, symbolic, or other means – where this is due. We must consider how trust has been eroded,

and the extent to which restorative actions and justice might repair vital connections and important relationships. We must ask ourselves and each other what we need, and consider honestly what can be offered to meet that need. We must reflect and locate our own actions, inaction, and responsibilities in the landscape of both our previous and current relationships with one another. We must do this for ourselves, to know what it means to be part of this society: past, present, and future. And above all, we must do this for the sake of coming generations. It is not their responsibility to resolve our conflict. We have survived, therefore we must educate our children about what has happened, how it may be resolved, and how to ensure they never have to endure what so many in our society have.

Understood in this way, while 'dealing with the past' may be daunting and uncertain, it is also a prospect that holds positive potential for restoration, growth, and better relationships. Engaging with this challenge requires a willingness to embrace that ambivalence, and work together constructively towards the ultimate goal of a better, more secure future.

'Dealing with the past', therefore, is a society-wide issue.

While there is a moral duty to consider and respond to survivors' needs (see point 3 below), dealing with the past is not restricted to specific groups of people, or only those most affected or involved. We have a collective responsibility, and this should be reflected in the process as a whole: including the legislation, operations of all new mechanisms, those chosen to lead the new structures, and the spirit of the work undertaken.

2. **A dilemma exists between the urgent need to drive the process forward, on one hand, and the importance of designing the 'right' and adequate vehicle for this journey, on the other hand:** Healing Through Remembering has identified certain issues with the proposed mechanisms, and have raised these in our questions and comments below. It is our view that, for the proposed legacy institutions to function effectively, more time needs to be spent thinking and working through the detail of both:

- the specific founding principles, aims, design, and operations of each element, and
- how the different elements relate to and resonate with one another i.e. the inter-related working of the system as a whole.

Obviously it is not possible to deliver a process that will meet the expectations and needs of all parts of society right away, and that there is merit in working constructively at every stage of this process to deliver meaningful outcomes upon which the next, continuously improved, steps can be built. On this basis, Healing Through Remembering has offered the comments and recommendations below, and reaffirm our commitment to engaging with this ongoing process.

It is important to acknowledge that while the many challenges we face will not be resolved in one stroke, progressing actions that are both feasible in practical terms and supported by agreed standards of moral probity and social ethics can build trust and momentum in the

process. While all of the inter-related issues at stake are important, some are more urgent than others. Among these are the moral duty that political bodies and all in society have to urgently attend to supporting the rights and needs of the **injured** and **bereaved** (see point 3 below).

Perhaps the clearest indication that the current 'system' is not working and that there is an urgent need for appropriate legacy institutions, is the fact that even the people involved in leadership positions across the relevant institutions have made public statements outlining why they believe the situation is unsatisfactory: the Police Ombudsman, the Chief Constable, and Lord Chief Justice have all made statements to this effect in recent years. It is reasonable to suggest that no society that has experienced the complex conflict and loss that has occurred here could "move on" in these circumstances.

3. **Matter of urgency:** As the Board of HTR, Healing Through Remembering wish to register our serious concern in relation to the absence of a clear resolution of the following matter:

- a. **The Victims Payment Scheme for the seriously injured:** Healing Through Remembering believe it is morally indefensible that the delivery of this scheme to individuals in need has not been resolved, despite the fact this was called for in the *Stormont House Agreement* and subsequently agreed to and put in place, it now stalled due to 'operational issues'. Healing Through Remembering recognise the serious difficulties associated with reaching the political agreement on this measure and it is therefore even more contemptable that the issue has again become stalled – especially this far in its development. The fact it remains outstanding shames us all.

Many of the individuals concerned were injured in incidents that occurred several decades ago. Many have far outlived the lifespan that was projected for them at that time on the basis of their injuries. Their suffering has been compounded by deteriorating mobility, health, and wellbeing, becoming more serious as they age. Many are in severely declining health, suffer persistent pain, and require daily care and support. The impact on family and carers has been significant. Tragically, dozens have already died without the opportunity of a properly supported and dignified quality of life.

This payment scheme must be implemented now to assist the remaining small number of individuals that have been identified as being in need of this support.

4. **The importance of context:** This relates to point (1) above: the importance of ensuring explicit clarity as to *why* legislation and policy development for the *Stormont House Agreement* institutions are required.

It is important that each element of legacy institutions provides enough contextual insight or historical background to enable a full appreciation of the work that needs to be accomplished by the proposed institution. People will need to be provided with clarity on

what specific problems each aspect of the proposed legacy institutions are intended to engage with and attempt to resolve, and what purpose this activity hopes to achieve. This is important for establishing the aims and logic guiding their activities, how they should operate, what their boundaries and limitations are, and on that basis, how they should set and manage the expectations of people who engage with them.

In addition, this is not a neutral landscape: any legacy institutions will be introduced into a context that has already seen considerable activity with varying effectiveness, strengths, and weaknesses. It is vital that this context is reflected in the design and implementation of the legacy institutions, showing how this new phase of activity will complement and work within the existing landscape.

HTR has produced practice-based research that explores and highlights key aspects of this landscape. A specific resource that may be helpful to review in this regard is the report *Dealing with the Past? An Overview of Legal and Political Approaches Relating to the Conflict in and about Northern Ireland* (2013).

5. Any next steps are part of a wider process that cannot be simplistically bound in terms of timescale or impacts:

HTR's experience shows that dealing with the past is a dynamic and evolving challenge that involves many more issues and people than those identified in the proposals. All of these will need to be linked and included in a progressive, systematic process as time moves forward.

Healing Through Remembering appreciates fully that legacy institutions need to be time bound for practical, budgetary, and planning purposes, and the organisation understands there is an urgency to support people in specific ways now; however, it is important that any legacy institutions and next steps include an explicit acknowledgement that these proposed mechanisms cannot be all things to all people at this time. International experience shows there will be 'unfinished' and 'unresolved' issues at the end of this phase of activity. An ongoing commitment will be needed.

We cannot make assumptions about what future generations may or may not make of this undertaking. That said, we will be laying the groundwork for a more open and inclusive vision of the road ahead, if we recognise clearly at this point that dealing with the past and working towards reconciliation is a *process* and that it is the right of every generation to ask questions, and to review and advance that process as their circumstances require.

6. Principles: Healing Through Remembering is concerned that the six principles set out in the *Stormont House Agreement* and described as underpinning the proposed approach to dealing with the past are unhelpfully general, vague, and lack specific meaning or substance for this process. Furthermore, some of the principles need to be better correlated with the proposed function or activities of different parts of the proposed institutions – for example,

the principle of facilitating the pursuit of justice is in tension with the design of the Independent Commission on Information Retrieval.

In its extensive engagement with people from all backgrounds since 2001, HTR’s experience has affirmed the truism that there is no ‘one size fits all’ blueprint for dealing with the past: each context is different, and while broad lessons can be shared and applied, responses must be tailored to the specific circumstances of a conflict and the society affected. It is important to grasp that this insight extends to the fundamental principles which must underpin any process to deal with the past: the importance of context, clarity, and nuance cannot be overstated.

As part of its work over the years, HTR has developed a considered framework of *Core Values and Principles for Dealing with the Past* (2008): Healing Through Remembering propose that these could form the basis of a revised, more appropriately tailored set of principles to underpin any legacy institutions.

The HTR principles are shown in Table 1 below.

Table 1: Summary of HTR Core Values and Principles for Dealing with the Past

THEMATIC AREA		PRINCIPLES	
1	SOCIETY	1	Commitment to the future
		2	Healing and hurt
		3	Not forgetting
		4	Realistic and hopeful goals
		5	Right to truth
2	PROCESS	6	Language and terminology
		7	Trust, transparency and engagement
		8	Flexibility
		9	Independence and political commitment
		10	Structured and holistic approach
		11	Recognition and appreciation of existing work
3	INDIVIDUAL	12	Inclusive, diverse, participative, and empoining Through Remembering

Further to the above, Healing Through Remembering recommends that any next steps should at a minimum reflect and incorporate a considered discussion of and demonstrated commitment to the key principles affirmed by all parties to the Good Friday/Belfast Agreement, namely: democracy, non-violence, partnership, equality, and mutual respect; the protection of civil, political, social, economic and cultural rights; the freedom from discrimination for all citizens; parity of esteem; and just and equal treatment for the identity, ethos, and aspirations of the two broad communities in this region.

7. **The absence of a definition or detailed discussion of ‘reconciliation’:** Healing Through Remembering is concerned that while this the *Stormont House Agreement* refers to a guiding principle of ‘reconciliation’, and the Implementation and Reconciliation Group will be charged with promoting reconciliation, it does not provide a definition of this important concept. This is a significant omission.

Defining ‘reconciliation’ can be challenging, but it is not impossible, and experience shows that developing a multi-faceted definition offers opportunities for inclusion and participation across society. Northern Ireland has developed an expansive, ‘home-grown’ definition of reconciliation that is consistently used by practitioners and researchers, both regionally and internationally: Hamber & Kelly (2004) describe the process of reconciliation as involving five interwoven and related strands:

- Developing a shared vision of an interdependent and fair society
- Acknowledging and dealing with the past
- Building positive relationships
- Significant cultural and attitudinal change
- Substantial social, economic and political change

This definition also recognises the tensions inherent in any process of reconciliation (see Hamber & Kelly (2018) for more detail on this). Healing Through Remembering recommend that any next steps in this process should include and be based on a carefully considered definition of reconciliation, building on the accessible materials available that have already explored the concept. The purpose of this would be twofold: first, to give more structure and purpose to the work that is to be undertaken by the proposed institutions; and second, to create new avenues for engaging with the wide range of issues and people not specifically included in the legacy institutions.

8. **Language shift from “*dealing with the past*” to “*addressing the past*”:** Healing Through Remembering have noted there has been an unhelpful change in the language used in the official documents relating to these issues and processes: whereas historically officials and documents referred to “*Dealing with the Past in Northern Ireland,*” the terms ‘dealing with’ and ‘addressing’ the past are now used interchangeably in many contexts..

Healing Through Remembering believe there is an important, if subtle, difference – and confusion - to note here: from our perspective, ‘dealing with’ implies engagement, ‘addressing’ is not necessarily a two-way process. For example, it is one thing to *address* an audience, and another thing entirely to *deal with questions in dialogue*. The organisation hopes that this shift does not mean that the necessary emphasis on *engagement* which should underpin the activities and themes is being watered down.

No explanation is provided as to why official documents now prefer the term ‘addressing’ rather than ‘dealing with,’ as used by the *Consultative Group on the Past* (and by HTR consistently since its inception). An explanation would be helpful. Clearly there is an important distinction to be made. A ‘problem’, ‘issue’, or ‘challenge’ may be considered

‘addressed’ without necessarily being ‘dealt with’. The danger is that the shift from ‘dealing with’ to ‘addressing’ signals a watering down of commitment to ‘engagement’ with all concerned parties and the achievement of positive outcomes.

9. **The leadership of the proposed legacy institutions will be key:** The proposed legacy institutions will engage directly not only with issues that create political uncertainty and controversy, but also with human complexity, pain, and confusion. The leadership of these institutions will need to be of an exceptionally high calibre, such that it will operate with integrity and flexibility, accommodating anomalies and finding ways to incorporate and bring to the attention of the governments any important unexpected matters arising. The quality of this leadership, the trust that these individuals inspire across society, and the communication between the high-level stakeholders will be vitally important for building confidence in each aspect of this phase of activity, and for setting a credible course for the longer-term process of dealing with the past.
10. **The fundamental importance of effective communication and engagement:** The proposals describe a complicated array of mechanisms and pathways for moving forward. In the event of any next steps, Healing Through Remembering would be concerned to see the following made more explicit:

- a. **Effective external communication** that will explain in clear terms the role and purpose of each mechanism, how to engage with it, and what to expect from the process. Clear communication and effectively managing expectations will be key to building trust and supporting engagement.

Healing Through Remembering recommend that, in any next steps, every element of the work should be resourced proactively to anticipate potential confusion among members of the public, and should take steps to communicate clearly and manage expectations.

The duty of the various legacy institutions to communicate their work to the public could helpfully be built into legislation.

- b. **Effective internal communication** that will clarify how and ensure that these mechanisms relate to, coordinate, and work in conjunction with one another, rather than in silos.

There should be an onus on the leadership of each legacy institution to work in partnership and communicate and meet regularly.

Healing Through Remembering recommend that a communication strategy should include the following explicit commitments: to publish information regularly throughout the lifetime of this phase of activity; to detail key findings, statistics, themes, and patterns; and to enable public engagement with and ownership of this process.

11. **The importance of robust, constructive, and ongoing engagement with the existing infrastructure of institutions designed to protect and promote key interests and groups across society:** Healing Through Remembering recommend that any next steps should include developing formal, supportive, and accountable relationships with the relevant Commissions and bodies that can enable best practice in every area of this process. This should include at minimum:
 - a. **The Commissioner for Victims and Survivors** and the **Victims and Survivors Service** to scrutinise and support the delivery of a properly victim-centred process. This must include consideration of *safe and equitable pathways* to engagement and access.
 - b. Other bodies, such as the **Northern Ireland Human Rights Commission**, the **Equality Commission**, the **Commissioner for Children and Young People**, the **Commissioner for Older People**, and the **Commissioner for Public Appointments for Northern Ireland**.
 - c. Appropriately skilled and experienced critical friends from the academic and community/voluntary sectors.

**E: Current Board of Healing Through Remembering
(This is indicative of the diversity of the organisational membership)**

Alex Bunting MBE was seriously injured during the conflict following a car bomb which resulted in Alex losing one of his legs. On his own journey to recovery Alex got involved in trying to access support and help for those severely injured during the conflict. Alex was part of the first Victims and Survivors Forum where he continued to fight for support for all victims, with a particular interest in the needs of those with serious and permanent injuries. In March 2017 Alex received an MBE from the Queen for the role he has played in campaigning for all victims, Alex continues to fight for a pension for those seriously injured who have been left struggling to support themselves as they age and their needs change.

Philip Dean has been involved in community development since 1993 to include projects centred around young men's training and women's engagement programmes as part of EU peacebuilding measures. Philip has also been involved in local politics, holding office of General Secretary of the Ulster Democratic Party, during which time he completed leadership training at University of Maryland. Philip is dedicated to working towards safer communities, holding Chair of the Welcome BME Project in Lisburn and is a member of the Lisburn PCSP, having held office of Vice Chair. Philip has been a Director of several community based organisations, focusing on disadvantaged areas and has more recently been a driving force in community regeneration through linking social enterprise where he manages community projects and social enterprises. This has led him to becoming a founding Director of The Resurgam Trust which he chairs and which is aiming to create regeneration within disadvantaged areas of Lisburn and encourage social enterprise. Philip assists with Lisburn Peoples Support Project, a community and youth development organisation concentrating on areas such as youth provision, peace-building, training and community safety.

Brandon Hamber is Director of the International Conflict Research Institute (INCORE) and Professor of Peace and Conflict Studies at Ulster University. He is also a member of the Transitional Justice Institute at the university. He was a Mellon Distinguished Visiting Scholar at the African Centre for Migration and Society at the University of the Witwatersrand in Johannesburg (2010-2013), and remains an associate. He is a Board member of Netherlands-based, Impunity Watch. He has undertaken consulting and research work, and participated in various peace and reconciliation initiatives in Liberia, Mozambique, the Basque Country and Sierra Leone, among others. He has written extensively on the South African Truth and Reconciliation Commission, the psychological implications of political violence, and the process of transition and reconciliation in South Africa, Northern Ireland and abroad. He has published some 50 book chapters and scientific journal articles and 4 books.

Claire Hackett is the manager of Falls Community Council's digital oral history archive Dúchas which records personal experiences of the conflict. She has developed conflict resolution work through oral history, working with nationalist and unionist working class communities across Belfast which resulted in the publication in 2014 of a book called Living Through The Conflict – Belfast Oral

Histories. Claire has been involved in work to ensure that women's experiences of the conflict are recognised through the publication of a policy document on Gender Principles for Dealing With The Past.

Conor Keenan works as a Political Manager in Sinn Féin. He is a Governor and Trustee of Scoil an Droichid, Belfast and Director of the Short Strand Partnership. Conor was a steering group member of the Belfast Conflict Resolution Consortium.

Brian Lambkin was the founding Director of the Mellon Centre for Migration Studies at the Ulster-American Folk Park, Omagh until his retirement in April 2018, and was previously Principal of Lagan College, Belfast. He is the author of *Opposite Religions Still? Interpreting Northern Ireland After the Conflict* (Avebury, 1996) and joint author with Patrick Fitzgerald of *Migration in Irish History, 1607-2007* (Palgrave Macmillan, 2008). His latest book, *Calming Conflict: Northern Ireland, Metaphor, and Migration*, was published in December 2019 by the Mellon Centre for Migration Studies and the Ulster Historical Foundation.

Louise Purbrick is an academic and activist interested in the material culture of conflict, political struggle and everyday life. Principal Lecturer in the History of Art and Design at the University of Brighton she is author of books and articles on materiality and history. Louise works with archaeologists, artists, former prisoners, photographers, and communities on meanings of spaces and sites, people and things. She has published a number of works on sites of exploitation and imprisonment. She is an editor with Jim Aulich and Graham Dawson of *Contested Spaces: Sites, Histories and Representations* (Palgrave, 2007). Of a series of essays and articles on Long Kesh/Maze prison in Northern Ireland, 'The Architecture of Containment' in Donovan Wylie's *The Maze* (Granta, 2004) is the most frequently cited. With Xavier Ribas and Ignacio Acosta, she is part *Traces of Nitrate*, which examines legacies of mining colonialism through exhibitions in Barcelona, London, Liverpool and Santiago. With Maude Casey, Megha Rajguru and Nicola Ashmore, she is part of the *Re-Making Picasso's Guernica Collective*. Louise curated *Rattling the Cage*, an exhibition of the materials of an anti-Guantanamo campaign in which she played a part.

Dawn Purvis was a Member of the Northern Ireland Assembly from March 2007-May 2011, representing the East Belfast constituency, first as a member of the Progressive Unionist Party and subsequently as an independent. Dawn was involved with various rounds of peace process negotiations before, during and after the Good Friday Agreement. Dawn left politics in 2011 and became Northern Ireland Programme Director with Marie Stopes International (MSI). She opened the first integrated sexual and reproductive healthcare centre in Belfast. The first of its kind on the island of Ireland offering a range of services including advice on contraception, STI & HIV screening and early medical abortion within the law. She is currently CEO of a housing charity. Dawn continues to devote much of her spare time to community and voluntary initiatives aimed at tackling socio-economic disadvantage and exclusion.

Geraldine Smyth O.P. is former Head of the Irish School of Ecumenics, Trinity College Dublin, where she is now Adjunct Associate Professor. She holds a Ph.D. in theology from Trinity College Dublin (1993) and an honorary doctorate from Queens University Belfast (2003) for service to reconciliation and public life. She is interested in the intersections of theology and psychology, faith and politics,

and particularly as relating to churches, post-conflict justice, and the role of memory in peace building. She has written and lectured widely on these topics in academic, civic and faith community contexts.

Irwin Turbitt retired as an Assistant Chief Constable from the PSNI having over 30 years in the RUC and PSNI. He has been involved in voluntary peace-building work for a number of years and has now developed a second successful career combining academic and consulting work in the areas of leadership, innovation, and governance at Warwick Business School, Leeds University Business School, The Said Business School at Oxford and the Harvard Kennedy School. He teaches and coaches, mainly public sector managers, across the UK and beyond and seeks to use these experiences in his ongoing peace work at home.

Oliver Wilkinson is semi-retired having previously worked as CEO of two local charities. Currently, he is Chair of the Victims and Survivors Service and sits as a Board member of the Police Rehabilitation and Retraining Trust. He also acts as a Registered Intermediary working with vulnerable individuals who come into contact with the criminal justice system.

STAFF

Cate Turner is the Director of Healing Through Remembering and has been involved in the organisation since its inception. She has over three decades experience in the voluntary sector.

F: Call for Evidence Questions to be Addressed

Question 1:

Question 1: Whether the Government's Proposed approach will meet the needs of victims, survivors and their families

The *Stormont House Agreement* had four key elements but key to these was the Historical Investigations Unit, it thereby put a mechanism to consider justice at the heart of the proposals. The Government's proposed approach instead suggests "swift, final examinations of all the unresolved deaths" rather than the "reinvestigation" of the *Stormont House Agreement*. Healing Through Remembering understands that very few investigations, if any, will lead to prosecutions (see *The Viability of Prosecution Based on Historical Inquiry: Legal Opinion*: HTR 2006) (This research commissioned by Healing Through Remembering highlighted the evidential and procedural difficulties associated with historical investigations). The aim of the *Stormont House Agreement* "reinvestigations" is to officially investigate cases for the potential for the delivery of justice. It was not proposed with the expectation it would achieve a large number of prosecutions. There is therefore no reason to change this element due to lack of expected numbers of prosecutions. The long history of lack of investigation and shortcomings of previous processes have caused confusion and hurt to bereaved families. It is important to serve these families better in any process instigated and this "swift examinations" will limit the search for justice and only serve to further hurt those who have already suffered so much.

It is naïve to imagine that the families who have sought so long for justice for their loved ones will not pursue any legal avenues available to resolve this issue – their pain and distress will be prolonged as they search for justice and reconciliation for all of society will be delayed.

The aims of any legacy process must surely include a commitment to ensure that engagement by victims/survivors has the potential to restore dignity, to create the space for grieving, and to release families of a perceived obligation to continue to fight for information and recognition. In a word: a positive experience could offer the families meaningful *acknowledgement* of the loss and pain associated with the death of a family member. By removing "reinvestigation" and focusing on the needs of 'veterans', the Government Proposals make this positive experience unachievable. (See *Acknowledgement and its role in preventing future violence*, HTR (2006).)

Healing Through Remembering has previously stated that any new institution could generate significant good will and confidence at the grassroots if it started out with an inclusive approach that invites engagement from those that have felt excluded or poorly treated by previous processes. The government proposal rather perpetuates the feelings of exclusion and mistreatment.

Overall Healing Through Remembering do not comprehend how this new proposal can accurately describe itself as seeking "to put victims first ..." and "a way forward that delivers for all those affected by the legacy of the Troubles .."; on the contrary, based on our experience, research, and engagement in this area to date, Healing Through Remembering do not believe this proposal can meet the needs of victims, survivors and their families.

Question 2:

Question 2: What steps the government can take to ensure that the proposed new legacy body is independent, balance and open and complies with the Belfast/Good Friday Agreement and ECHR commitments

These proposals give primacy to the needs of ‘veterans’ over and above any other parties including victims and survivors; they therefore cannot achieve independence, balance and openness.

Healing Through Remembering agree with the conclusions in the report “*Prosecutions, Imprisonment and The Stormont House Agreement*” (McEvoy et al 2020) which does not find the proposed new legacy body compliant with the Belfast/Good Friday Agreement and ECHR commitments.

The high threshold for both the use of police powers and acceptance of ‘new evidence’ along with the obligation to ‘close cases’ fail be ECHR compliant.

The lack of ECHR law compliance and abandonment of justice reforms from the Belfast/Good Friday Agreement mean the proposals also fail to be Belfast/Good Friday Agreement compliant.

Healing Through Remembering believes that clear and coherent principles must be the foundation of any legacy process. (As part of its work over the years, HTR has developed a considered framework of *Core Values and Principles for Dealing with the Past* (2008): these have been carefully developed to inform, deepen, broaden, and revitalise public engagement with the challenge of dealing with the past.) The lack of adherence to the principles of independence, balance and openness negates the proposals as an appropriate way to deal with the legacy of the past.

Question 3:

Question 3: The differences between the Government's new proposals and the draft *Stormont House Agreement Bill*

The *Stormont House Agreement* is not an ideal solution, but it was devised and developed collectively by the political parties and therein lies its strength. In stark contrast, these proposals come from one party to the conflict and the peace – this unilateral action undermines the core of the *Stormont House Agreement*, insofar as it constitutes a collective *Agreement*.

In practical terms the new proposals involve “examination” rather than “investigation” thereby creating inequity in the handling of cases, non-compliance with Human Rights law and standards as well as the Belfast/Good Friday Agreement and the *Stormont House Agreement*.

It dismantles two of the key elements of the *Stormont House Agreement* – the HIU and the ICIR – and replaces them with one weaker body that does not have the search for justice at its heart.

The Government proposals mention “a central resource for people from all backgrounds – and from throughout the UK and Ireland – will also be created to share experiences and narratives related to the Troubles.” There is no indication how this relates to the proposed Oral History Archive, or whether in fact it is proposed in place of it or in addition to it – this response does not comment further on this element as it is not clear what this line refers to in any detail.

Healing Through Remembering are concerned that there is no indication how the Government proposal relates to the other elements of the *Stormont House Agreement*.

There is insufficient detail in the Government Proposal for us to comment further.

Question 4:

Question 4: Whether and how the Government's Proposals will promote reconciliation in Northern Ireland

Rather than promoting reconciliation, these proposals actually damage it and undermine the building of relationships and a future that we can all share. They are seen by many as the British authorities putting first the needs and concerns of the British Army and protecting State forces over and above the needs of victims and survivors of the conflict.

One key strand of reconciliation, as defined by Hamber and Kelly (2004), is building positive relationships. To create trust and to build positive relationships, demonstrable accountability is needed. Our research in this area has demonstrated that *a lack or perceived lack of institutional and political accountability can critically undermine the effectiveness of measures that aim to deliver truth and information recovery.*

This insight is emphasised in the HTR report *Making Peace with the Past: Options for Truth Recovery Regarding the Conflict in and about Northern Ireland* (note in particular Chapter 4, which discusses options for truth recovery in Northern Ireland, and highlights key strengths, opportunities, and weaknesses of a range of approaches). This report was produced via a collaborative process involving the participation of a diverse working group, including people from loyalist, republican, British Army, and police backgrounds, as well as victims and survivors. This collaborative process robustly challenged the options discussed. Based on the report's findings in relation to the importance of institutional and political accountability, Healing Through Remembering has grave concerns about the Government's proposals.

As stated above the *Stormont House Agreement* is not an ideal solution, but it was devised and developed collectively by the political parties and therein lies its strength. Some tweaking of the Agreement may be inevitable, but such major changes - by just one party to the conflict and the peace - fundamentally undermines this key value, i.e. collective endorsement, of the Agreement.

Question 5:

Question 5: The potential merits of consolidating the bodies envisaged in the *Stormont House Agreement* into a single organisation

There is a need to resolve operational problems between the HIU and the ICIR, however this proposal rather creates the HIU as a minor precursor to the ICIR and this causes many more - and more serious - problems than it seeks to resolve.

In the HTR response to the NIO Consultation Healing Through Remembering stated:

A potential way forward could be to establish the HIU and ICIR as sequential rather than concurrent processes: the HIU first, followed by a clear process to demonstrate that no further prosecutions will be sought through the HIU mechanism, and then the ICIR commences its work. However, even in this scenario, information that came to light via could potentially be passed to the PSNI – in which case, the original problem remains.

It is vital that this question is resolved prior to any next steps being undertaken in relation to this measure.

Healing Through Remembering does not believe this proposal resolves the questions, highlighted in consideration of the *Stormont House Agreement*, of how to distinguish between the important issues of Justice and Truth Recovery, or how to ensure that each is pursued to the greatest extent possible through a meaningful and coherent Legacy process.

Question 6:

Question 6: The equity of the Government's proposed approach to the reinvestigation of cases

Substituting “swift examinations” for “re-investigations” indicates a lack of equity in the system as some cases will receive less intensive scrutiny than merited.

There is already a sense of inequity and, for some, bitterness in relation to the fact that some people currently seem to obtain what they need whereas others do not. Many people are suspicious that the current lack of a consistent system is a deliberate tactic fostered by high-level reluctance to engage with a difficult process. Current official approaches to dealing with the past are viewed by some as being intentionally disconnected, slow, and prohibitively costly, with the ultimate purpose of deferring meaningful action, to the extent that a generation of people may die before their needs are met.

By giving primacy to the needs of veterans rather than all victims and survivors, the proposals create further inequity in this already difficult and contentious landscape.

Healing Through Remembering has already seen how the access to previous and existing legacy processes enjoyed by individuals varies greatly depending on the organisations or people with whom they are already engaged, their history and patterns of engagement with existing networks, and whether they have the capacity to articulate their needs clearly and in a forthright way. The framing of these proposals will further deepen this inequity.

Through the various processes that have occurred to date – ranging from public inquiries to individual Historical Enquiries Team cases, etc. – some events and cases have been inquired into or even resolved to a greater extent than others. As a result some people have accessed more information, truth, justice, and in some cases even closure, than others. Such outcomes, therefore, have not been delivered equally for all. Removing the element of reinvestigation further deepens these inequities. And whereas delivering equal outcomes may not ever be possible, the principle of *seeking* outcomes on an equitable basis should be affirmed.

Question 7:

Question 7: What legislative steps the Government can take to address what have been described as vexatious claims against veterans

Those who did not defend the law, especially when that was their duty, should not hide under the umbrella of “vexatious claims”. There must always be a route to justice.

While there is always a risk of vexatious claims in any report from any citizen to or about any state agency Healing Through Remembering is not aware of another situation where that possibility has been a reason to prevent anyone making any claim. The principle of the state has always been to deal with the few on behalf of the many. There is no reason why this should not apply here. Indeed there has always been sanction against those that waste or abuse state resources. This would apply to vexatious claimants abusing their rights as much as it would apply to state actors who had abused their authority.

Healing Through Remembering rejects the implication that conflict related investigations are ‘vexatious’; and believe the current legal process contains safeguards against malicious prosecution.

See *Prosecutions, Imprisonment and The Stormont House Agreement* (McEvoy et al 2020) for more detail.

G: Concluding note

Based on experience and research, Healing Through Remembering wishes to emphasise that any legacy proposals are not stand alone, they are a part of a wider, long-term process of 'dealing with the past', not just 'addressing it'.

Society has a moral imperative to rise to the challenge of dealing with the past. This is a shared responsibility and a long-term process in which every part of society has a role to play.

While every person and part of society may have a slightly different perspective on what that process should involve, the ultimate goal is to deliver a better, more reconciled future, in which we do not repeat the harms and mistakes of the past. This may mean, almost inevitably, that individuals have to compromise or give up specific aspirations in relation to specific issues, in the interest of working towards this 'greater good'.

Despite the very real difficulty, fundamental change, that this sort of compromise involves the challenge of dealing with the past can be met. Healing Through Remembering's experience and research have shown that this is true if people are enabled to engage and feel some ownership and involvement in the process. Generating such ownership and involvement is necessarily slow work that relies on explicit demonstrations of integrity and accountability. These explicit gestures can create the conditions in which people can encounter one another with the humility and curiosity that enable not only genuine contact, but also acknowledgement of each other's stories and perspectives.

All of the comments included in this response are offered in a constructive, open spirit.

Healing Through Remembering is committed to working constructively to enable the development of approaches to dealing with the past that truly support and meet the needs of society, both in remembering, and in healing and collectively moving towards a viable and peaceful future.

As an organisation that has spent two decades considering and promoting the need for a society-wide approach to dealing with the past, Healing Through Remembering is open to and ready for further engagement in relation to any questions that may arise from this process, and remains willing to assist in whatever ways the organisation can.

1 June 2020

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