

Addressing the Legacy of Northern Ireland's Past



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**Presented to Parliament
by the Secretary of State for Northern Ireland
by Command of Her Majesty**

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CP 498



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Foreword by the Secretary of State for Northern Ireland



It has been 23 years since the signing of the Belfast/Good Friday Agreement. That was a bold, brave step that paved the way for peace following a terrible, extensive period of violence that claimed the lives of 3,500 people, left up to 40,000 people injured, and caused untold damage to all aspects of society in Northern Ireland.

The Belfast/Good Friday Agreement was pioneering in its approach, creating the foundations upon which all the people of Northern Ireland have been able to build a shared, stable, peaceful, and prosperous future.

Through the collective efforts of the whole community, great progress has been made since then. In its centenary year, we can look around and see many examples of a Northern Ireland transformed. Northern Ireland's economy has fantastic potential: it is continuing to grow as a global cyber security hub, and Belfast is ranked 9th in the Top 25 Tech Cities in the world; and 2nd in the UK after London. This is supported by world class universities, helping to give Northern Ireland the skills needed to succeed domestically and internationally.

But we cannot ignore the fact that the legacy of the Troubles continues to cast a long shadow. The trauma of the past is passed down to generations with no direct experience of those horrors, reinforcing and renewing division between communities.

The current system for addressing the events of that dark and difficult period of our national history is not working for anyone. The intense focus on divisive legal processes continues to drive wedges between communities and undermine public confidence in the police as they go about their work today. Lengthy, drawn out and complex legal processes stifle the critical information recovery and reconciliation measures that could help many families and frequently lead to years of uncertainty for those under scrutiny. In addition to the grave impact on individuals, this also prevents wider society from moving forward.

This Government understands that legacy issues are sensitive and complex. That is why they remain unresolved - over two decades after the signing of the Belfast/Good Friday Agreement. We also understand that time is not on our side. Without movement very soon, we will lose the opportunity to provide answers to families who have already waited too long for the truth. We will fail to explain the complexity of the Troubles in an unbiased way and from all perspectives to the children of Northern Ireland today, condemning them to carry a partial view of the Troubles that acts as a barrier to community integration and understanding. And we will fundamentally fail to address the legacy of Northern Ireland's past in a way that allows society to look towards reconciliation.

This is why we are taking forward an intensive and time-limited period of engagement and have committed to bringing forward legislation to address the legacy of the past as soon as possible in this parliamentary session. We are committed to working closely with the Government of Ireland as we progress these proposals.

The purpose of this paper is to set out a series of proposed measures for addressing the past that will be considered as part of the ongoing engagement process with a view to informing discussion and subsequent legislation.

I look forward to discussing the shape and detail of the proposals as we work towards addressing this issue, which is of the utmost importance to the people of Northern Ireland and beyond.

Executive Summary

1. There is broad agreement across Northern Ireland that the current system for dealing with the legacy of the Troubles is not meeting the needs of anybody and reform is required. Northern Ireland's past remains one of the major factors in shaping its present - legacy issues continue to be deeply felt both by victims and survivors and wider society, with significant impacts on politics, public debate and trust in the police and wider justice system. The unresolved issues associated with the legacy of the Troubles filter down to a generation who, whilst they did not directly experience the horrors that previous generations did, nonetheless continue to feel their effects.
2. The Stormont House Agreement established the key principles for effectively dealing with legacy issues, including a focus on the needs of victims and survivors. The UK Government understands the importance of the Stormont House Agreement, and remains committed to the principles and spirit that it enshrined. But we also want to ensure that any process for dealing with the past focuses on measures that can deliver positive outcomes for as many of those directly affected by the Troubles as possible - as well as for society in Northern Ireland as a whole. Therefore, any process must address fundamental implementation issues within the Stormont House Agreement that are likely to prevent this.
3. The UK Government wants to deal with the past in a way that focuses on providing information to as many families as possible. It wishes to help Northern Ireland's wider society to look forward rather than back, and to achieve this by delivering measures intended to facilitate reconciliation. Through reconciliation, the UK Government wants to help create strong relationships across communities, which respect differences and enable the right decisions for the people of Northern Ireland to be taken.
4. The need for criminal courts to consider the criminal evidence standard (beyond reasonable doubt) inevitably means that, in many cases where the criminal evidence standard is not met, criminal courts are not able to provide families with the answers they are seeking. More than two thirds of deaths from The Troubles occurred more than 40 years ago. The passage of time means that ultimately, for those cases that get as far as a trial, there is a high likelihood of 'not guilty' verdicts or trials collapsing. For both families of victims and those accused this can be a very distressing outcome following years of uncertainty. Furthermore, the criminal justice approach is in stark contrast to the wider aims envisaged in the Belfast/ Good Friday Agreement and the Stormont House Agreement of promoting societal reconciliation through acknowledgement, recognition of different

narratives and information recovery to the extent that is now possible given the passage of time.

5. We know, not least from recent cases, that the prospect of successful criminal justice outcomes is vanishingly small. It is not simply the case that positive outcomes are rare; pursuing a criminal justice outcome can also have negative consequences. There are finite resources available to address this complex challenge, particularly in terms of time and people. Using limited resources to pursue a small number of cases to prosecution standards currently means that, while a tiny number of families may see someone prosecuted, and an even smaller number may see an eventual conviction, this is likely to be at the expense of failing to deliver positive outcomes to the vast majority of families, who will miss out on the opportunities to successfully recover information. There is an imperative to take action while those who want - or have - information are still with us. Rather than pursuing a goal (convictions) that will fail almost every family, we want a process of information recovery that will deliver for every family that wants it. The UK Government's aim is to deliver as much information as possible, to as many people as possible, as quickly as possible.
6. The Government is therefore setting out proposals which, if implemented, would:
 - Establish a new independent body to enable individuals and family members to seek and receive information about Troubles-related deaths and injuries;
 - Establish a major oral history initiative - to be delivered via new physical and online resources and through empowerment of the museums sector in NI - supported by rigorous academic research projects, to further mutual understanding and reconciliation in both the short and long term while realising ideas put forward at Stormont House;
 - Introduce a statute of limitations to apply equally to all Troubles-related incidents, bringing an immediate end to the divisive cycle of criminal investigations and prosecutions, which is not working for anyone and has kept Northern Ireland hamstrung by its past.
7. The UK Government acknowledges that any proposal that moves away from criminal justice outcomes would be a very significant step that would be extremely difficult for some families to accept. However, the UK Government is increasingly of the view, after long and careful reflection, that any process that focuses on the lengthy pursuit of retributive justice will severely hold back the successful delivery of a way forward focused on information recovery, mediation and reconciliation that could provide a sense of restorative justice for many more families than is currently achieved through the criminal justice system.
8. The best outcomes for Northern Ireland have been achieved when we have collectively taken bold steps. The Belfast/Good Friday Agreement acknowledged

that, in focusing on a shared future for Northern Ireland, we sometimes need to make difficult decisions in relation to the past. We are at a similar crossroads here. There have been a number of attempts to find a way to address the legacy of the Troubles (some of these are detailed in Annex B) since 1998, and the lack of success illustrates the scale of the challenge - notwithstanding the expertise and efforts of those who have sought to meet it.

9. We believe that we now have a real opportunity to meet this challenge, building on the experience of previous attempts but taking account of what has changed and what we have learned since then. The UK Government is determined in its aim, to find a way through for as many families as possible, allowing them to obtain answers about the past that will subsequently help them - and wider society in Northern Ireland - to move towards a positive and reconciled future.

1. A NEW INFORMATION RECOVERY BODY

10. It is the Government's view that persisting with a criminal justice approach to the Troubles is in stark tension with the wider aims and aspirations envisaged in the Belfast (Good Friday) Agreement and the Stormont House Agreement of promoting societal reconciliation through acknowledgement of wrongs - on all sides - and acceptance of different narratives and information recovery. This view has been developed and informed through careful consideration and discussion with a range of stakeholders to date.
11. The Government is therefore putting forward proposals that focus on the recovery and provision of information by a new body. Under these proposals, this body would be independent of Government and focussed on helping families. Where families do not want the past gone into again, they would be able to make this clear. But for those families that want to get answers about what happened to their loved ones, it would have powers to access information and find out what happened. This includes where there remain unanswered questions about allegations of wrongdoings by representatives of the State.
12. Individuals and family members would be able to approach this body to seek and receive information involving a death or serious injury in the United Kingdom as a result of a Troubles-related incident. This information recovery body could be informed by the Operation Kenova approach - which has achieved very positive outcomes in building strong relationships with victims and helping them to better understand the circumstances around what happened to their loved ones, even though none of their investigations has yet reached the prosecution stage. We envisage that the new body could have a broad staffing model, with researchers and archivists as well as those with policing experience. Consideration of details around structure and resourcing is being taken forward, and will be informed by wider discussions with the NI parties, the Irish Government, and other key stakeholders.

Case Study: The Truth and Reconciliation Commission in South Africa

The system of Apartheid in South Africa ended with the country's first general election with universal suffrage in 1994. As the country sought to address the legacy of its past human rights violations, there was a strong division in the country between those calling for a blanket amnesty and those calling for retribution. The Truth and Reconciliation Commission, set up under the Promotion of National Unity and Reconciliation Act 1995, represented something of a compromise, as well as a significant shift from an ethic of retribution towards an ethic of restorative justice - from punishment towards accountability, reparation or compensation.

Born out of public participation, with more than 50 organisations from civil society involved, the TRC presented itself as a microcosm of the nation whose purpose, according to former South African Justice Minister Omar, was “to facilitate the healing of our deeply divided society on a morally acceptable basis.”

The TRC¹ primarily focussed on victims, receiving over 22,000 statements from those who had suffered from human rights abuses. Public hearings, many of which were broadcast live, afforded victims the opportunity to tell their stories to the nation, which not only provided individual cathartic benefits, but also ensured that there was national recognition of the atrocities that had been committed. The TRC deviated from the norm of keeping ‘oppressed’ and ‘oppressor’ narratives separate - both were explored in tandem with the aim of arriving at reconciliation for all.

There has been growing support for a Truth and Reconciliation Commission to deal with the legacy of the past in Northern Ireland, with a recent (May 2021) poll finding 64% of people in both Northern Ireland and in Ireland in favour of a commission, and only a small number in each opposed to one.

13. The body would primarily focus its efforts on investigating deaths or serious injury at the request of the next of kin or individuals. Where families do not want a case reopened, no investigation would take place, unless it would be required by international obligations. This would allow the body to target resources on cases where families want answers about what happened to their loved ones, and to provide these as quickly as possible.
14. These proposals would mean the body would take forward an investigation in relation to deaths or serious injuries, but for the purpose of genuine and robust information recovery, rather than to create a file for prosecution. This would ensure that resources are focused on the specific needs of the family or individual. It would also ensure that more families and individuals obtain more information, more quickly.
15. Investigators would have full access to information from UK state agencies (see section on ‘Disclosure’ below), as well as being able to take statements from individuals with potentially vital information. The Government is increasingly of the view that this approach would maximise opportunities for information recovery, with perpetrators and witnesses more likely to come forward with potentially useful information than under previous models where such information could be used against them.

¹ More specifically, the TRC consisted of 3 committees: the Human Rights Violations Committee; the Reparations and Rehabilitation Committee, and the Amnesty Committee. Members of each were selected through a countrywide and public nomination process, with interview panels comprising representatives of all political parties, civic society, and religious bodies.

16. All relevant, reasonably verifiable information obtained would be compiled and presented to the individual or family member in the form of a written report or official record of the incident. The body would be under a duty not to disclose any information which would put the safety of individuals at risk.
17. Every effort would be made to ensure that everything possible is done to support victims and survivors as they navigate the information recovery process, with specially trained family liaison officers providing a single point of contact to support individuals or families throughout the process. For example, the body could provide regular progress updates, address any ongoing family requests, and ensure that the appropriate trauma support is available.
18. The UK Government understands, is sympathetic to, and fully appreciates the immense difficulty that would be involved for some families in accepting any prospect of a possible shift from criminal justice outcomes. However, we believe that this approach would offer the best chance of giving more families some sense of justice through acknowledgement, accountability and restorative means, rather than a focus on retributive justice that in recent years has almost never delivered meaningful outcomes for families or society more widely.
19. As well as providing positive outcomes such as answers and a written report, engagement with the information recovery process would provide opportunities for meaningful acknowledgement and recognition of suffering in ways that have been difficult to facilitate thus far. For example, it could be possible to arrange (at the initiation of the family, and with the consent of all parties) face-to-face victim-perpetrator mediation sessions, offering families a sense of accountability and justice through restorative means.

Disclosure

20. The UK Government reiterates its commitment to full disclosure in order to provide information to families, wherever that is required. In line with the provisions previously set out in the draft Stormont House Agreement Bill, state bodies and agencies would be under a legal duty to provide full disclosure to the body of all relevant documentation, information and material that is required for it to reasonably fulfil its functions. This duty would extend to the police and security services, and to the Armed Forces, and would be set out in legislation. It is also clear that disclosure cannot be one sided and we would expect all relevant parties to make a similar commitment to cooperation and to providing disclosure.
21. As under the Stormont House proposals, appropriate safeguards would be put in place to ensure that there would be no inadvertent disclosure into the public domain of information that could threaten national security, or put lives at risk. This would in no way prevent the UK Government from approaching this process

on the basis of the principles of openness and transparency, to achieve positive outcomes for as many families as possible.

2. ORAL HISTORY AND MEMORIALISATION

22. More than twenty years after the Belfast/Good Friday Agreement, the process towards peace and reconciliation between divided communities in Northern Ireland remains incomplete. There are still more than 20 miles of peace walls separating communities in Northern Ireland, and research has found that as much as 39% of the population in Northern Ireland has experienced a traumatic event related to the Troubles². There is also a growing recognition of trans-generational impacts, with many children born after 1998 nonetheless suffering such trauma. It is vital that we think about healing and reconciliation in societal, as well as individual terms.
23. From Bosnia to Argentina, the sharing of experiences and perspectives has played an important role in the context of conflict transformation processes, and has been shown to have significant benefits. There has been general consensus³ that a process to facilitate thoughtful oral history and memorialisation initiatives is needed in Northern Ireland. The Stormont House Agreement included an 'Oral History Archive' - to provide a place for people of all backgrounds to share experiences and narratives relating to the Troubles - and we know that storytelling represents an opportunity to acknowledge the pain, suffering and unique experiences of those who have not previously been heard.
24. Consistent with the Stormont House Agreement, the UK Government is committed to ensuring that further reconciliation measures form a core part of addressing the legacy of the Troubles. A key element of our proposed legacy package would be the establishment of a major oral history initiative to create opportunities for people from all backgrounds to share their experiences and perspectives related to the Troubles - and to learn about those of others. Balance and sensitivity would be of central importance to such an initiative, and we would like a concerted effort to be made to engage with those whose voices may not have been heard previously, via a review of what is missing in the existing oral history landscape and through an emphasis on supporting community-led groups in carrying out this work.

² CVSNI "Troubled Consequences" report, 2011 <https://www.cvsni.org/media/1435/troubled-consequences-october-2011.pdf>

³ 83% of respondents to Healing Through Remembering's consultation were in favour of some form of remembering process. <http://healingthroughremembering.org/wp-content/uploads/2015/11/HTR-Report-2002.pdf>

Case study: Memorialisation in Germany

Following the re-unification of Germany, two successive Truth and Reconciliation Commissions were established by the German Parliament, with the purpose of 'truly unifying Germany'. The recommendations of these Commissions led to a number of initiatives, including:

- The Berlin Wall Memorial, which preserves a stretch of the original wall, along with numerous other displays and exhibits as well as a digital archive housed in a center that provides tours, seminars, thematic events and educational work. Another example is a memorial at a former detention facility (Berlin-Hohenschönhausen), which is mandated to investigate the history of the facility and inform the public about acts that took place there.
- Independent foundations to continue the work of the Commissions, supporting victims as well as projects that investigate the past or preserve historical archives. The most notable of these, is the "Stiftung zur Aufarbeitung der SED-Diktatur" (**Foundation for the Reappraisal of the SED Dictatorship**). Funded by the government it has:
 - Provided psychological and legal assistance to victims of political persecution
 - Used exhibitions, events and publications to examine, discuss and provide context,⁴
 - Helped draft a law giving reparations to persons imprisoned under the regime.

25. As well as providing - we would hope - a sense of cathartic acknowledgement for those contributing, with their support, thoughtful new physical and online resources could be created. These would present new and existing oral histories, as well as other material, to wider society in Northern Ireland in a way that is holistic, balanced and contextualised. The aim would be to build an understanding of other perspectives across wider society.

26. We believe that there should be a particular focus on promoting engagement with Troubles-related history among younger generations, to encourage tolerance of other narratives and ensure that lessons about the past are not forgotten. Online and other resources could seek to link up existing oral history collections, providing a central access point for learning and reflection on the Troubles.

27. Our proposals would maintain many of the vital aspects proposed for the Implementation and Reconciliation Group in the Stormont House Agreement - including giving serious consideration to statements of acknowledgement by the

⁴ Since 1998, the foundation has funded 2,500 exhibitions, 507 events, 375 books, 100 academic researchers, 40,000 item library.

various actors of the Troubles, with the positive message this would send to victims, survivors and families across Northern Ireland.

28. The oral history work outlined could be supported by the commissioning of academic work, including factual timelines, statistical analysis and themes and patterns reporting as proposed in the Stormont House Agreement, to help build an understanding of history that reflects the complexity of the events of the past, as well as the broader landscape and context in which they took place. This would be multidisciplinary in nature, and we envisage an important role for research institutions and bodies to ensure that any such work is rigorous and done to the highest academic standards.
29. We are also considering how best to support the wider sector in helping to deliver oral history and memorialisation objectives, recognising the good work already being done by grassroots organisations - many of whom have struggled due to the pandemic - and in line with the previously proposed Implementation and Reconciliation Group's broader function to consider and support initiatives geared towards reconciliation and anti-sectarianism.
30. Building on what we have heard previously, our ambition would be for this work to be led by a partnership of academics, museums, and other relevant organisations, leveraging existing expertise while ensuring value is added to the good work which is already being done in this sector. In time, such a consortium could serve to unlock other opportunities for collaboration and inclusive debate on other reconciliation, memorialisation, and educational initiatives that have previously proved challenging to progress.
31. Of course, addressing the past and promoting reconciliation cannot be taken forward in isolation. Our proposals would take account of, and plug into, wider opportunities and initiatives that could help NI fulfil its potential as a safer, more tolerant, and more integrated society, aimed at helping future generations understand the past, each other, and their neighbours.

Case Study: the role of education in integrating and reconciling society

The slow process of reconciling and integrating a divided community is not achieved through one process or idea. It can only happen through gradual changes across all aspects of society. The education system, at all levels, plays a vital role in this. We are interested in the various possibilities for education to help reconciliation, through increasing integrated education, using technical and vocational education to improve educational outcomes for children across the community, and through improving Northern Ireland's university provision. An example of this might be a cross border university situated in the North West. This could symbolise the importance of North-South cooperation, representing an important step in achieving greater social cohesion,

and ensuring the North West receives the investment into social enterprises that it so richly deserves. Such an initiative could also help to address the longstanding issue of 'brain drain' in NI, add immediate value to NI's economy by providing more skilled jobs, and attract research funding and the promotion of businesses, helping to level up the least prosperous sub region of NI.

3. A STATUTE OF LIMITATIONS

32. The UK Government's view is that a bold, but difficult, step is required in order to provide information, certainty, acknowledgement, and reconciliation, for all those directly affected by the Troubles and wider NI society. Experience has shown us the difficult reality that the pursuit of criminal justice outcomes will fail the vast majority of families, both in terms of successful prosecutions and the provision of satisfactory information, while taking decades to complete and feeding into intergenerational trauma with all the societal issues this continues to bring to communities.
33. The decreasing likelihood of successful prosecutions is supported by evidence, which shows that between 2015 and 2021 just nine people have been charged in connection with Troubles-related deaths. Whilst recognising that the prosecutorial process does not need to end in a conviction to be judged meaningful, it is worth noting that of these nine, just one person has been convicted. Further statistics demonstrating the difficulty of securing criminal justice outcomes are set out below.
34. That is why the UK Government is considering a proposed way forward that would remove criminal prosecutions through the application of a statute of limitations to Troubles-related offences. Under such a proposal, the PSNI and Police Ombudsman Northern Ireland would be statutorily barred from investigating Troubles-related incidents. This would bring an immediate end to criminal investigations into Troubles-related offences and remove the prospect of prosecutions.
35. The Government considers this could also pave the way for the delivery of the robust information recovery process set out above to be successful, helping as many families as possible, by encouraging those with potentially useful information about a Troubles-related death or serious injury to cooperate with the information recovery body. In our view, trust in any information recovery mechanism would be severely weakened while there were ongoing concurrent criminal investigations, and the information that we believe to be crucial for families, and wider reconciliation efforts, would be lost forever.
36. Under such proposals, any statute of limitations would not apply retrospectively, meaning no pardons would be granted.

NI Legacy & The Criminal Justice System: Statistics

- Over 3,500 people were killed during the Troubles, almost one third of whom were members of the security forces.

- Security Forces were responsible for around 10% of Troubles-related deaths - the vast majority of which were lawful - and loyalist and republican paramilitaries for around 90% of all deaths.
- The PSNI's Legacy Investigations Branch (LIB) is currently considering almost 1,200 cases. Chief Constable Simon Byrne has stated that to go through the LIB list - which represents a fraction of the 3,500 deaths - would take over 20 years using current resources.
- Even some of the most robust and resource-intensive investigations of recent times are yet to result in successful prosecutions.
- The Historical Enquiries Team had an annual budget of £30million and 100 staff. After 10 years, just 3 of the 1615 cases it reviewed resulted in successful convictions for murder.
- Between 2015 and 2021 just 9 people have been charged in connection with Troubles-related deaths, only one of whom has been convicted.
- Operation Kenova, which is investigating or reviewing around 200 Troubles-related deaths and has so far operated for 5 years with an annual budget of £6million, has not yet led to any prosecutions.

4. INQUESTS AND CIVIL CASES

37. The Government is committed to providing greater certainty for all those directly affected by the Troubles and to enable all communities in Northern Ireland to move forward. This involves looking holistically at all forms of investigations - including civil and coronial processes relating to the Troubles, which like criminal processes, involve an approach that can create obstacles to achieving wider reconciliation.

38. We are therefore considering a proposed way forward that would end judicial activity in relation to Troubles-related conduct across the spectrum of criminal cases, and current and future civil cases and inquests. We recognise that these are challenging proposals. However, ongoing litigation processes often fail to deliver for families and victims, and their continued presence in a society which is trying to heal from the wounds of its past risks preventing it being able to move forward. The time and effort used in these cases is demonstrated in some of the statistics set out below. This could be better focussed towards supporting and facilitating information recovery in a process which is meaningful, rigorous and which offers families and victims timely access to as much information as possible.

Civil cases, JRs & inquests: Statistics

- Of the over 1000 civil claims against the MoD; Northern Ireland Office (NIO) and other State agencies, very few are currently at trial stage and a significant number are yet to progress beyond the initial stage of a court order being issued.
- According to the Crown Solicitor's Office of Northern Ireland the numbers of private claimants in these cases is negligible and the vast majority of cases rely on legal aid.
- These costs are a significant proportion of the approximately £500 million spent on legal aid in Northern Ireland since 2011.
- These cases almost never provide families with the answers or results they seek.
- There are currently around 36 outstanding inquests relating to deaths that occurred before April 1998.

5. CONCLUSION

39. The UK Government believes that the proposals set out in this paper could form the basis of a comprehensive legacy package that would achieve our objectives of helping families obtain information about the deaths of their loved ones, promoting reconciliation, fulfilling our legal obligations, and helping society in Northern Ireland to look forward rather than back to a divisive past.
40. After careful consideration, we believe that the most effective way in which these objectives can be achieved is likely to be through an approach that moves away from the pursuit of criminal justice outcomes. Without our taking this difficult step, the vast majority of families would never get the answers they desire, and legacy issues would continue to burden and traumatise individuals and society in Northern Ireland for decades to come. Instead, our proposals would seek to help as many families as possible and help Northern Ireland society to move towards a positive view of the future.
41. We believe this approach is also important to provide certainty for the vast majority of former soldiers and police officers who put their lives on the line to uphold democracy and the rule of law while acting within the law themselves, and who now just want to live out their retirement without the fear of unfair investigations.
42. The UK Government is clear in its aims, and believes these are shared by others. However, we acknowledge that there are challenges ahead, and elements that require further discussion. We are committed to working collaboratively with the Irish Government, NI parties, and the victims sector to develop these proposals, with the hope that a way forward can be found that delivers a process to help Northern Ireland move towards a more peaceful, reconciled and prosperous future.
43. The Belfast/Good Friday Agreement was pioneering in its approach; both progressive and forward looking, and focusing on a shared future for Northern Ireland. But it was only achieved because of the inclusion of a number of difficult reconciliatory measures that put aside normal criminal justice processes, including the early release of prisoners, restricting prison sentences to just two years even for the most heinous Troubles offences, and concluding the process of secretly decommissioning paramilitary weapons.
44. What we are proposing now could be the next bold step on the journey we started collectively in 1998. It is time that we build on the difficult but necessary compromises of the Belfast/Good Friday Agreement and seek finally to address the past in Northern Ireland, moving forward with an approach which delivers for all those who suffered and played their part in bringing about peace.

6. NEXT STEPS

45. The Government is engaging with the Irish Government and the Northern Ireland parties on these issues and holding meetings on an inclusive basis with victims and survivors and all those most directly affected by the Troubles to ensure their interests and perspectives are central to the discussions.
46. The aim of these talks is to establish a collective way forward on Northern Ireland legacy issues, allowing implementing legislation to be introduced as soon as possible in this parliamentary session. The shared objective of this engagement is to deal with these issues comprehensively and fairly, and in a way that supports information recovery and reconciliation, complies fully with international human rights obligations, and that responds to the needs of victims, survivors and society as a whole.

Annex A: Stormont House Principles & the UK Government Proposals

The Stormont House Agreement includes the following section:

21. As part of the transition to long-term peace and stability the participants agree that an approach to dealing with the past is necessary which respects the following principles:

- promoting reconciliation;*
- upholding the rule of law;*
- acknowledging and addressing the suffering of victims and survivors;*
- facilitating the pursuit of justice and information recovery;*
- is human rights compliant; and*
- is balanced, proportionate, transparent, fair and equitable.*

Promoting reconciliation - Our proposals would take forward the major oral history initiative proposed in SHA, which would give people from all backgrounds an opportunity to share their experiences and perspectives. This would be supported by academic commissions as well as thoughtful new physical and online educational resources, with the aim of building a shared community understanding of Northern Ireland's past - particularly among younger generations in the absence of fully integrated education.

In partnership with relevant expert organisations in the museums and academic sector, structures would also be put in place to take forward wider memorialisation initiatives geared towards the commemoration and education of the past in a way that is respectful and balanced, ensuring that the lessons of the Troubles are not forgotten. The shift away from criminal justice outcomes, and towards information recovery and reconciliation would help all in Northern Ireland to look forward together rather than back to a divided past.

Upholding the rule of law - The Government remains committed to the rule of law, whilst accepting that these proposals acknowledge the uncomfortable reality that the prospect of convictions resulting from criminal investigations is vanishingly small. While it is envisaged that a statute of limitations might remove the prospect of criminal investigations and prosecutions, a comprehensive information recovery mechanism with full disclosure powers, including from the State, will investigate cases to find answers for many families, and proactively seek information about a death or serious injury where this is required by Article 2 of the European Convention on Human Rights.

Acknowledging and addressing the suffering of victims and survivors - The Government's approach recognises the individuality of victims and survivors, many

of whom simply want answers, acknowledgement, and understanding. With a focus on providing an effective and victim-centered information recovery process, we believe that these proposals would provide tangible benefits to those who have waited too long for answers. They would also open the door to voluntary victim-perpetrator mediation sessions, while the oral history initiative would provide a means for those in wider society as well as those directly affected by a death or injury, to have their suffering and experiences acknowledged. Structures would also be put in place to consider wider acknowledgement and commemoration of the past in a way that would be balanced and respectful.

Facilitating the pursuit of justice and information recovery - By ending the relentless pursuit of criminal justice outcomes - which almost never delivers for families - our proposals would help provide a sense of restorative justice which could be delivered to many, such as through voluntary victim-perpetrator mediation sessions. Moreover, a body focused on information recovery, free from the operational constraints caused by concurrent criminal investigations, would be empowered to provide information to those who have waited too long already, as quickly as possible. Going beyond the ICIR proposed at SHA, this body would also provide information to those who sustained serious injuries during the Troubles. This would seek to provide justice to families through recognition and acknowledgement of what happened to them and their loved ones.

Human rights compliant - The Government is fully committed to fulfilling its human rights obligations, and believes that any approach to legacy reform must seek to ensure that the disproportionate pursuit of criminal justice outcomes in line with one such obligation, does not act as a barrier to others - such as the right of families to answers about what happened to their loved ones. The body which we are proposing would have full disclosure powers, and would proactively seek information about any death or serious injury at the request of the relevant family or individual.

Balanced, proportionate, transparent, fair and equitable - Rather than (re)investigating all 3,500 Troubles-related deaths to a criminal standard - which could take 20 years and result in few if any convictions - we believe our proposals would ensure a focus on providing information to those who want it, as quickly as possible. We believe this approach would also better accommodate other valuable initiatives, including an oral history project that will facilitate storytelling and understanding, and a balanced approach to memorialisation, providing a more proportionate and fair system that recognises that the needs of individual victims and families are often different. All of the measures in our proposals would apply equally to all communities and groups in Northern Ireland and/or affected by the Troubles.

Annex B: Attempts to address the legacy of the past

1998: We Will Remember Them⁵

The intention of establishing a Commission “to look at possible ways to recognise the pain and suffering felt by victims of violence arising from the troubles of the last 30 years, including those who have died or been injured in the service of the community” was announced by the Secretary of State for Northern Ireland in 1997. The Commission held a series of meetings with families bereaved by the Troubles before considering its proposals. It published its report, *We will remember them*, on 13 May 1998. It made the following recommendations:

- Greater compensation for victims of violence, and their support groups
- An official ombudsman or champion to deal with demands and grievances of victims
- Creation of physical memorials such as a garden or park at appropriate time
- Consideration of establishment of Truth and Reconciliation Commission in the future
- Higher priority given to treatment of pain, and research into alleviating pain and trauma of victims
- Funding to assist children who suffered as a result of death or injury of a parent
- Memorial Day for victims in future
- Improved employment opportunities for victims

In June 1998, The Victims Liaison Unit was set up by The Minister for Victims, Mr Adam Ingram MP, To support the Implementation of this report. Following consultation, the Education Bursary scheme and the Northern Ireland Memorial Fund were set up. A review was carried out into the Criminal Injuries Compensation Scheme, and NI parties were asked to nominate victims representatives. The Victims Liaison Unit initially worked alongside the Victims Unit - established by OFMDFM in 2000 - however areas of responsibility were gradually passed to the Victims Unit and the Victims Liaison Unit closed at the end of January 2005.

2005: The Northern Ireland (Offences) Bill

The Northern Ireland (Offences) Bill was introduced in the House of Commons in November 2005. It attempted to deal with those suspected of terrorist-related offences committed before the date of the Belfast Agreement (10th April 1998) in connection with the affairs of Northern Ireland, who had not been tried or convicted

⁵ Report of the Northern Ireland Victims Commissioner, Sir Kenneth Bloomfield KCB April 1998

because they had been 'on the run'. It made comparable provision for those who might be charged in the future with terrorism-related offences committed before that date, and for those who had already been convicted of such offences. Both terrorists and the security forces would have been eligible.

As a result of opposition to the proposals, and despite the Government's significant majority, the Bill was subsequently withdrawn by then SoSNI Peter Hain.

2005-2014: Historical Enquiries Team

The PSNI's Historical Enquiries Team (HET) was set up in 2004 to re-examine the 3,269 unresolved deaths related to the Troubles in Northern Ireland between 1968 and 1998. It was formally launched by Peter Hain, then Secretary of State for Northern Ireland, in January 2006, with the following objectives:

- To assist in bringing a measure of resolution to those families of victims whose deaths are attributable to "the Troubles" between 1968 and the signing of The Belfast Agreement in April 1998.
- To re-examine all deaths attributable to "the troubles" and ensure that all investigative and evidential opportunities are subject to thorough and exhaustive examination in a manner that satisfies the Police Service of Northern Ireland's obligation of an effective investigation as outlined in Article 2, Code of Ethics for PSNI; and to do so in a way that commands the confidence of the wider community.

In 2012, acting upon the request of the Chief Constable of the PSNI, the then Justice Minister of Northern Ireland, David Ford MLA, asked Her Majesty's Inspectorate of Constabulary (HMIC) to review the HET in order to establish whether the HET's investigations conformed to current policing standards, whether there was an appropriate level of consistency in cases, and - in respect of cases relating to state involvement - whether the investigations were compliant with the ECHR.

The [HMIC report](#) found that the HET treated cases relating to state involvement differently and "less rigorously" than cases where there was no state involvement, and that its approach to state involvement cases was 'inconsistent with the UK's obligations under Article 2 ECHR'. HMIC further found that the deployment of former RUC and PSNI officers in state involvement cases 'easily gives rise to the view that the process lacks independence'. In 2014, it was announced that, as part of a broader restructuring of the PSNI, the HET would be wound up and replaced with the smaller Legacy Investigation Branch (LIB), an investigative branch within the Police Service of Northern (PSNI). LIB's role is primarily to investigate homicide

and security forces related deaths arising from the Northern Ireland 'Troubles' between 1969 and 2004.

2009: Consultative Group on the Past⁶

The Consultative Group on the Past chaired by Lord Eames and Denis Bradley made 31 proposals. The proposals included: an Independent Legacy Commission to tackle securing reconciliation, justice and information; a new Review and Investigation Unit to deal with historical cases; no new public inquiries; a reconciliation forum; an annual day of reflection; and funding to tackle sectarianism. A £12,000 payment to be made to the relatives of the 3,700 people killed during the Troubles was also proposed. This elicited strong reactions from political parties and wider civil society, and the report was not taken forward.

2014: Stormont House Agreement⁷

The 2014 Stormont House Agreement (SHA) was negotiated over 11 weeks with discussions including the UK Government, the Northern Ireland parties and the Irish Government.

SHA envisages four new bodies⁸, which the UKG pledged up to £150 million over five years to help fund:

- **A Historical Investigations Unit** to take forward outstanding investigations into Troubles-related deaths;
- **The Independent Commission for Information Retrieval (ICIR)**, to enable eligible family members to seek and privately receive information about the deaths of their loved ones;
- **An Oral History Archive (OHA)** to enable people from all backgrounds to share experiences and narratives related to the Troubles; and
- **An Implementation and Reconciliation Group (IRG)** - an institution to promote reconciliation and anti-sectarianism and to provide oversight of the SHA institutions through review and assessment of their implementation.

The SHA was largely supported by all of the major NI parties (excluding the UUP) and the Irish Government. It agreed a number of basic principles including reconciliation, rule of law and a victims' centred approach. However, the parties

⁶ [Report of the Consultative Group on the Past](#)

⁷ [Stormont House Agreement \(2014\)](#)

⁸ These institutions were first detailed in the Hass O'Sullivan Report in 2013.

were unable to agree more substantive text during the subsequent Fresh Start Agreement talks and legislation has yet to be delivered to give effect to these institutions. The Northern Ireland parties requested that any legislation be taken through the UK Parliament and following significant consultation with the parties. Draft legislation was subsequently developed by the UK Government.

This [legislation](#) was consulted on in 2018, and the consultation received over 17,000 responses. The draft bill had been discussed many times with the NI parties before consultation, and represented what officials believed was the space between them. The UK Government published a [summary of responses](#) to the consultation in July 2019. The consultation responses covered a wide range of themes, with a general consensus that the current system for addressing legacy issues requires reform. The consultation also highlighted the importance that people placed on information recovery to achieve reconciliation, and on hearing and acknowledging the voices of victims. There was also a strong interest in issues of funding, resource, staffing, timeframes, and the independence and transparency of any legacy body. The UK Government focus since then has been based on the practical issues identified since this consultation, including the operational difficulties of investigating such a high number of complex, historical cases.

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