



Northern  
Ireland  
Office

Secretary of State  
for Northern Ireland

1 Horse Guards Road  
London  
SW1 2HQ

Stormont House  
Belfast  
BT4 3SH

E: [sos.lewis@nio.gov.uk](mailto:sos.lewis@nio.gov.uk)  
[www.gov.uk/nio](http://www.gov.uk/nio)  
Follow us on Twitter  
[@NIOgov](https://twitter.com/NIOgov)

Dunja Mijatović  
Commissioner for Human Rights  
Council of Europe  
[Isil.GACHET@coe.int](mailto:Isil.GACHET@coe.int)

22 September 2021

Dear Dunja,

Thank you for your letter dated 13 September 2021 regarding the UK Government's proposals to address the legacy of the Troubles in Northern Ireland.

The UK Government welcomes your ongoing interest in this important issue. The role of the Commissioner for Human Rights is an important part of the Council of Europe, to ensure human rights are respected and implemented across all member states.

The UK Government is committed to dealing with legacy issues in a way that supports information recovery and reconciliation, complies with international human rights obligations, and responds to the needs of individual victims and survivors, as well as society as a whole. In publishing our proposals for addressing the legacy of Northern Ireland's past in the Command Paper of 14 July, we were clear that these were intended not to represent a final position but rather to inform a process of engagement. This engagement - which involves meeting with political representatives, representatives from the victims sector and victims and survivors directly - is ongoing and we are listening to and considering the views we are hearing very carefully as we reflect on the way forward.

A more detailed response to the issues you raise in your letter is in the attached Annex.

Yours sincerely,

**THE RT HON BRANDON LEWIS CBE MP**  
**SECRETARY OF STATE FOR NORTHERN IRELAND**

## Annex

The UK Government published the proposals in the Command Paper on 14 July 2021 in order to inform the engagement process on legacy which it announced jointly with the Irish Government on 24 June 2021. In the statement to Parliament which accompanied the paper, the UK Government was clear that the objective of the paper was to deal with legacy issues in a way that supports information recovery and reconciliation, complies fully with international human rights obligations including those under the ECHR, and responds to the needs of individual victims and survivors, as well as society as a whole.

Any system for dealing with the legacy of the past must be fair, proportionate, focused on reconciliation and deliver for all those affected by the Troubles. The proposals set out by the UK Government follow on from the principles set out in the Stormont House Agreement, while attempting to address the implementation problems within that agreement.

The UK Government has sought the views of victims and survivors from across the community in Northern Ireland and Great Britain, through direct engagement with representatives in the victim's sector.

The Government agrees that it is vital that victims and survivors have a role in the design, implementation and monitoring of any information recovery body. In thinking about how this is best achieved, it is vital to learn from processes and governance structures that have been put in place as part of other legacy processes, including the Police Service of Northern Ireland (PSNI)'s Legacy Investigation Branch and Operation Kenova.

Having prioritised consultations with families of victims at an early stage, our proposals have been, and continue to be, designed with the victims and survivors at the forefront. For example, the proposed information recovery body would include specially trained liaison officers to provide a single point of contact for individuals and families throughout information retrieval processes - providing regular progress updates, addressing any ongoing family requests, and ensuring that the appropriate trauma support is available.

As outlined in the Command Paper of July 2021, we believe that any approach to legacy reform must seek to ensure that the pursuit of criminal justice outcomes in line with one important obligation, does not act as a barrier to the fulfilment of others - such as the right of families to receive answers about what happened to their loved ones.

We know from recent cases that it is increasingly unlikely for criminal prosecutions relating to legacy offences to satisfy the evidential threshold necessary for a prosecution. Not only are successful prosecutions rare but the complex and lengthy

pursuit of criminal justice outcomes means that alternative mechanisms of providing information to victims and families are held back. Between 2015 and 2021 just nine people have been charged in connection with Troubles-related deaths. Using limited resources - both time and people - to pursue a small number of cases means that a small number may see a prosecution commenced; however, far fewer will see a conviction.

There is also the risk that ongoing prosecutions hinder and prevent information sharing with families. A consultation carried out by the UK Government in 2018, 'Addressing the Legacy of Northern Ireland's Past' strongly suggested that many would not contribute potentially vital information while the threat of prosecution loomed.

The UK Government recognises that the current system is not delivering for victims or families. The establishment of a new independent body to focus on the recovery and provision of information about Troubles-related deaths and the most serious injuries would help families to find out the truth of what happened to their loved ones. The body would be independent of the Government.

Importantly, the information recovery process would be guided by families and victims, allowing them to participate but respecting the wishes of those who do not want more information. A comprehensive information recovery mechanism, with a commitment to full disclosure by the State to this recovery mechanism, would conduct investigations into all cases as requested by the family, and proactively seek information about a death or serious injury where this is required by Article 2 and Article 3 of the European Convention on Human Rights. This would be a more efficient and focused method than judicial processes and would not require families to go through an adversarial court system to get the answers they seek.

Dealing with the legacy of the past in Northern Ireland is complex and challenging. Annex B of the Command Paper sets out the previous attempts which have been made since 1998. None of these have garnered cross-community support. The UK Government believes that now is the time for a bold step forward to address these issues and end the cycle, to promote reconciliation and deliver strong and stable relationships between communities ultimately building a better Northern Ireland for all.

Although the McKerr group of cases remains under the supervision of the Committee of Ministers, progress has been made across a number of areas. Supervision of nine of the general measures were closed by the Committee of Ministers in a series of decisions and interim resolutions between 2005 and 2009. On 9 March 2021, the Committee of Ministers decided to close its supervision of three of the judgments in the McKerr group, with the CoM considering that the question of individual measures was resolved.

We recognise that more needs to be done. Through the engagement we have had across Northern Ireland and Great Britain we have sought feedback on the proposals set out in the Command Paper. We are using this engagement to shape our approach and create a process which deals with legacy issues in a way that complies with international human rights obligations.