



House of Commons  
Northern Ireland Affairs  
Committee

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**The Report of the  
Consultative Group on  
the Past in Northern  
Ireland**

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**Second Report of Session 2009–10**

*Report, together with formal minutes, oral and  
written evidence*

*Ordered by the House of Commons  
to be printed 9 December 2009*

## The Northern Ireland Affairs Committee

The Northern Ireland Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Northern Ireland Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel).

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### Current Committee staff

The current staff of the Committee are David Weir (Clerk), Alison Groves (Second Clerk), Emma McIntosh (Senior Committee Assistant), Becky Crew (Committee Assistant), Karen Watling (Committee Assistant), Becky Jones (Media Officer) and Mr Tes Stranger (Committee Support Assistant). Georgina Holmes-Skelton was the Committee's Second Clerk during this inquiry.

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# 1 Introduction

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1. The Consultative Group on the Past was established in 2006 by the then Secretary of State, Rt Hon Peter Hain MP, as an independent group to seek views across the community in Northern Ireland on the best way to deal with the legacy of the past. It was co-chaired by Rt Rev. the Lord Eames OM and Mr Denis Bradley. The other members were Mr Jarlath Burns, Rev. Dr Lesley Carroll, Professor James Mackey, Mr Willie-John McBride MBE, Ms Elaine Moore and Canon David Porter. Mr Martti Ahtisaari, former President of Finland, and Mr Brian Currin, founder of the National Directorate of Lawyers for Human Rights, acted as International Advisers. The Group was asked to:

- consult across the community on how Northern Ireland society can best approach the legacy of the events of the past 40 years;
- to make recommendations, as appropriate, on any steps that might be taken to support Northern Ireland society in building a shared future that is not overshadowed by the events of the past; and
- present a Report setting out conclusions to the Secretary of State for Northern Ireland.<sup>1</sup>

2. The Consultative Group was initially asked to produce its report by summer 2008. However, owing to “the breadth of the mandate and the extent of the consultation”<sup>2</sup> the Group did not report until 28 January 2009. The final report contained 31 recommendations on a broad range of activities relating to reconciliation in Northern Ireland.

3. In attempting to establish the best way for Northern Ireland to move forward from the events of the past, the Consultative Group undertook a huge task. Members spoke to individuals from across Northern Ireland from all walks of life and endeavoured to listen dispassionately to the often harrowing stories and the needs of all those affected by the Troubles. They were tasked to take all views into account, despite often contradictory perspectives, and to try to build a way forward for everyone in Northern Ireland. The enormity of this task cannot be underestimated, and the Group’s report represents a very serious attempt at addressing the lingering problems faced by society in Northern Ireland as a result of the Troubles.

4. Given the nature of the past and the raw hurt many still feel in Northern Ireland, it was inevitable that the report would spark debate. However, the extent of the controversy and depth of public feeling that became apparent following publication — in relation, in particular, to one recommendation — had not been foreseen. It was for this reason that we undertook a rather wider inquiry into the report of the Consultative Group than we had first envisaged. In February, we announced that we would undertake a short inquiry into the Group’s findings and would take oral evidence from Lord Eames and Mr Bradley. We had expected that this session, followed by a session with the Secretary of State for

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1 The Report of the Consultative Group on the Past, January 2009, p 44

2 Ibid p 22

Northern Ireland, would be sufficient to gain an understanding of the Group's broad recommendations. However, the detailed nature of the recommendations as well as the sheer strength of public reaction, led to the extension of our inquiry to four evidence sessions and a call for written evidence from the public.

5. How Northern Ireland responds to the past is a critical question for all sections of its community. The Consultative Group's report contains bold recommendations as to how to deal with the past and look to the future. The fact that public reaction was so strong is itself evidence of the need to address the deep-rooted divisions that continue to exist within Northern Ireland. The sectional divisiveness of that reaction in itself highlighted the danger that implementing proposals not supported by the two main parts of the community in Northern Ireland would do more harm than good. In this Report we outline the conclusions we have drawn from our inquiry. We have reluctantly concluded that there is not enough cross-community consensus at present on many of the issues that the Consultative Group raised for the wide-ranging project that it recommended to succeed. It is crucial that any major new body in Northern Ireland, such as the proposed Legacy Commission, should have cross-community support. Without that, it could not hope effectively to fulfil its mandate of helping to lead Northern Ireland towards reconciliation and a peaceful shared future. A body trusted by some but not by a significant number in both communities would risk undoing the progress made in Northern Ireland over the last 10 years.

6. We acknowledge that, even if the time is not right for the kind of all-embracing developments advocated by the Consultative Group, a do-nothing approach is neither practicable nor conducive to the continued development and healing of society in Northern Ireland. Whatever view individuals and parties may take of wider politics, common to all successful development of individuals, communities and politics (as well as security) must be improved relations between the two main communities (and indeed increasingly with growing ethnic minorities too). We recommend that the issue of the past be approached in a more incremental way than proposed by the Consultative Group, but still crucially within a coherent overall framework, supporting and developing a number of essential initiatives (discussed later in our Report) aimed largely at improved healthcare for individuals affected by events of the Troubles and at improving community relations. But we also recognise, as discussed later in our Report, that even such an incremental approach may require both the Government and the Northern Ireland Executive to contemplate measures which might well involve fraught, complex and potentially highly contentious questions about truth recovery in particular. In short, as the Consultative Group recognised, there are no easy answers or quick solutions.

7. On 24 June 2009, the Secretary of State for Northern Ireland launched a public consultation into the recommendations of the Consultative Group. While we note the long, five-month, gap between the publication of the report and the launch of the consultation, it does present an opportunity for reflection and to gauge public reaction, to the Consultative Group's proposals in perhaps a more measured manner than was possible at the time of its publication. We hope that our Report will contribute to that consultation and to the wider debate on the best way to promote reconciliation in Northern Ireland in the coming years.

8. Taking no action to resolve the remaining difficulties in Northern Ireland is not an option, and we believe that a number of proposals in the Consultative Group's report should be built upon. To this end, we have examined the recommendations of the Consultative Group with regard to the individual functions of the Legacy Commission from the perspective that, while such a Commission cannot be successfully implemented at present, it is possible that some similar body could be effective at some stage in the future following further public debate and consensus-building. Some of our proposals could be implemented now, others are considerations for the future. We thank all the witnesses who provided evidence, written and oral, and our specialist adviser David Watkins, for their invaluable and thoughtful contributions.<sup>3</sup>

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<sup>3</sup> David Watkins has been a non-executive director of the Police Rehabilitation and Retraining Trust since 1 October 2009.

## 2 The Report of the Consultative Group on the Past in Northern Ireland

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### The consultation process

9. In September 2007, the Consultative Group invited individuals and groups affected by the conflict, in Great Britain and the Republic of Ireland as well as in Northern Ireland, to share their views on:

- the legacy of the past 40 years;
- any lessons learned; and
- the steps that might be taken to support Northern Ireland society in building a shared future that is not overshadowed by the events of the past.

10. During the initial consultation phase, the Consultative Group placed articles and adverts in newspapers, undertook radio and television interviews, and sent letters directly to interested groups, in order to publicise and explain the intention and scope of the inquiry. Over the course of the consultation period, the Group received 290 written submissions and 2,086 standardised letters. Public meetings were held in Belfast, Omagh, Armagh, Ballymena, Bangor, Enniskillen and Derry/Londonderry. The locations were chosen to be geographically accessible for as many people as possible, and approximately 500 people attended. Group members and staff also attended seminars, workshops and conferences held by independent organisations and groups where possible. Where attendance was not possible, they received feedback on the issues covered by these events. We note that no public meetings were held in Great Britain, where the number of deaths resulting from the Troubles, though proportionally small, was nevertheless significant, and we feel it right to recognise that the number attending meetings in Northern Ireland was not large.

11. The Consultative Group also met privately with 141 individuals and groups across Northern Ireland, the Republic of Ireland and Great Britain.<sup>4</sup> The Group commented that “[t]hese private meetings were a crucial part of the Group’s engagement, allowing it to hear from those who were not comfortable engaging in more formal meetings”.<sup>5</sup>

12. The report took account of existing work and research undertaken into ways of dealing with the past by a large range of individuals, groups, non-governmental organisations, statutory bodies and Governments. The Consultative Group paid particular respect to the work of Healing Through Remembering (HTR), a cross-community project made up of individual members from a range of political backgrounds. It also drew on the experience of other post-conflict countries and Truth Commissions around the world, and

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4 Including, in private, the Northern Ireland Affairs Committee, at Stormont in October 2008.

5 The Report of the Consultative Group on the Past, January 2009 p 46



particularly on the experiences of those involved in the implementation of the Truth and Reconciliation Commission in South Africa.<sup>6</sup>

13. The Consultative Group adopted principles against which its recommendations should be measured, with one key principle identified as standing out in particular:

The past should be dealt with in a manner which enables society to become more defined by its desire for true and lasting reconciliation rather than by division and mistrust, seeking to promote a shared and reconciled future for all.<sup>7</sup>

14. From this first premise, further principles followed:

- dealing with the past is a process and not an event;
- sensitivity towards victims and survivors is essential;
- recommendations should be human rights-compliant;
- relationships matter and are the foundation for reconciliation; and
- consensual agreement is the ideal.

15. The Consultative Group reported on 28 January 2009, concluding:

The Group acknowledges that its recommendations represent significant challenges for many within society. This Report will generate further debate on how the past should be dealt with and this will be an important part of taking forward the recommendations.<sup>8</sup>

**16. We welcome the work of the Consultative Group on the Past and recognise the significant time, energy and careful thought that all members of the Group put into compiling their report. The Group consulted widely among communities in Northern Ireland and produced a report which attempted to outline a way forward for everyone. This enormously difficult task was bound to provoke an emotional reaction from all areas of society affected by the Troubles. The final report was the product of a broad consultative exercise, conducted in good faith by the members of the Group.**

## Public reception

17. Initial public reaction to the report greatly concentrated on the widely criticised “recognition payment”. The Consultative Group intended that a one-off payment of £12,000 be made to the nearest relative of each person who died in the conflict as a form of recognition by the state that families on all sides had suffered through bereavement. The families of republican and loyalist paramilitaries as well as families of the security forces and bystanders would all be included. This provoked anger among some victim and

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6 Ibid pp 45 - 47

7 Ibid p 23

8 Ibid p 159

survivor groups and politicians, who believed that this proposal accorded moral equivalence to all those who died. West Tyrone Voice commented:

No amount of spin or political argumentation can change the fact that not one victim of terrorism chose to become that, unlike the terrorists who took up arms against them.<sup>9</sup>

18. The launch of the report at the Europa Hotel in Belfast was disrupted by angry confrontations between some groups and individuals, and subsequent media coverage reflected widespread criticism of this proposal. Gerry Kelly of Sinn Féin described the recommendation as a “mistake”.<sup>10</sup> This view was reflected in several submissions that we received.<sup>11</sup>

19. On 25 February, the Secretary of State for Northern Ireland, Rt Hon. Shaun Woodward MP played down the possibility of the Government implementing the £12,000 payment scheme as proposed by the Consultative Group. He told the BBC:

I have decided however we proceed on this Report, and there are many things I would like to consider in it, I do not think I will be proposing that this particular recommendation is one we should go forward on. There isn't a consensus on it, it is an interesting idea, but very clearly the time is not right for a recognition payment.<sup>12</sup>

20. On 1 April, the Secretary of State told the Committee:

The reason for deciding to move against that one recommendation for a recognition payment was because it was preventing any sensible discussion happening of the rest of the Report, about which I think there is quite a lot of consensus. The particular recommendation on recognition payments clearly had some consensus in some quarters and, as they have described it, it was not only to be found in one quarter but very, very clearly many, many people found it unpalatable, disagreeable and it was clearly getting in the way of sensible discussion<sup>13</sup>

21. On Wednesday 24 June, the Northern Ireland Office (NIO) published its own consultation paper outlining the recommendations of the Consultative Group on the Past in Northern Ireland and inviting comments on them. The NIO document outlines each of the recommendations individually and asks respondents whether they agree with them, along with several more detailed follow-up questions. This consultation closed on 2 October.

22. Having emphatically recommended that this recommendation should not be adopted, we now concentrate on the rest of the Group's report and its other recommendations. **We therefore endorse the Secretary of State's decision to set aside the recognition payment**

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9 Ev 51

10 “NI Troubles payment is ‘mistake’” BBC News Online, 16 February 2009, [news.bbc.co.uk](http://news.bbc.co.uk)

11 Ev 39, 40, 51 and 56

12 “Woodward rules out Troubles Cash”, BBC News Online, 25 February 2009, [news.bbc.co.uk](http://news.bbc.co.uk)

13 Oral Evidence taken before the Committee on 1 April 2009, HC 404-i, Q 2

proposed by the Consultative Group in order to facilitate discussion of its wider recommendations.

23. Whether or not any or all of the 31 recommendations are implemented, the report provides an opportunity for reflection on the extent to which society as a whole in Northern Ireland has progressed towards reconciliation, the degree and nature of remaining tensions in Northern Ireland, and the work that remains to be done. While we believe that the five-month gap between publication of the Consultative Group's report and the Government's launch of public consultation upon it was unnecessarily long, we hope that the public will have put emotional responses to one aspect of the Group's report to one side and engaged fully with the consultation to establish where consensus lies in relation to the remaining 30 recommendations.

## 3 The Legacy Commission

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### Mandate

24. The Consultative Group's core proposal was that a Legacy Commission be set up to deal with the legacy of the past by combining processes of reconciliation, justice and information recovery. The Group proposed that this be an independent statutory body with the overarching objective of promoting peace and stability in Northern Ireland. The mandate of the Legacy Commission would be to:

- help society towards a shared and reconciled future, through a process of engagement with community issues arising from the conflict;
- review and investigate historical cases;
- conduct a process of information recovery; and
- examine linked or thematic cases emerging from the conflict.

25. The Commission would, therefore, have three key sections: a Reconciliation Forum addressing societal needs; a Review and Investigation Unit continuing the work presently being undertaken by the PSNI's Historical Enquiry Team (HET) and the Office of the Police Ombudsman of Northern Ireland (OPONI); and a Truth Recovery and Thematic Investigation Unit offering further investigative options for families who are unlikely to be able to pursue prosecution through the courts, and also pursuing wider thematic enquiries emerging from the conflict. Each division would be headed by a separate Commissioner, one of whom would be an International Commissioner, who would also chair the Commission. We will discuss the detailed proposals for these separate aspects of the Legacy Commission later in this Report. Mr Denis Bradley told the Committee:

What we are recommending we think is the most dignified and the most achievable methodology of getting to a place where after five years you can begin to bring down the shutters and say, "We have done our best," because you cannot undo the past. It is not undoable.<sup>14</sup>

26. The response to the proposed Legacy Commission has been somewhat mixed. Most witnesses acknowledged the integrity of the principles upon which the Consultative Group made the recommendations for the structure of the Commission; seeking to facilitate reconciliation through remembering and addressing societal needs relating to the Troubles, and attempting to help Northern Ireland move beyond the past, while retaining some possibility of justice. Nonetheless, serious concerns were expressed about the exact work that such a Commission would undertake. When asked his opinion about the most positive recommendations made by the Consultative Group, Sir Hugh Orde, then Chief Constable of the Police Service of Northern Ireland, told us:

I think it was the structure, in the sense that it tried to bring [...] everything into one place. I think that would have been a positive step forward. It also gave other

opportunities to people that did not want the Historic Enquiry Team, which was the only show in town. We said at the beginning — in fact, when we started my expectation was that other things would kick in more quickly. In essence, it formalises a lot of the really good work — healing from remembering; truth recovery, story telling - all the things that we were told, but that were not joined up. I think its strength is its structure, and providing — and it is a big provision [...] — we were satisfied that we could carry on unencumbered by any other administrative difficulty or financial difficulty, then it makes sense to put it all in one place.<sup>15</sup>

27. However, we received evidence from a number of witnesses who were concerned that the Legacy Commission as proposed by the Consultative Group would merely replicate much work undertaken by existing bodies in Northern Ireland. For example, the Northern Ireland Community Relations Council (NICRC) commented:

The Council is not in principle opposed to a body that promotes societal reconciliation. However, we remain seriously concerned about the potential for overlap and duplication in the current proposal, not least with our own work.<sup>16</sup>

28. The Royal Ulster Constabulary George Cross (RUC GC) Foundation had a similar view:

The report suggests many new structures to address the issues relating to the past. It is the contention of the RUC GC Foundation that at best this will lead to duplication or confusion of effort and at worst drive a further wedge between communities who are beginning to learn to live with each other in an unsteady peace. There are already many organisations and groupings working in the identified areas and it might be that the best way to progress matters is by providing additional resources to additional bodies.<sup>17</sup>

29. The Northern Ireland Retired Police Officers Association (NIRPOA) thought that further reflection might be necessary to determine exactly where a body such as the Legacy Commission would fit into existing bodies in Northern Ireland:

I think before anything moves forward we need to have an appraisal of what actually is in place at this moment in time because the feeling coming out of Eames-Bradley is that there is yet another layer of bureaucracy put upon the work of organisations that are actually in place and have been doing good work. [...] I think we need to stop and take a collective long breath and see what is working and fund those issues, and then if there are residual issues that the community at large feels it needs to be addressed then certainly look for softer mechanisms to try and tease out those issues.<sup>18</sup>

30. There is potential benefit to unifying the various strands of work already being undertaken in Northern Ireland to promote reconciliation under an umbrella

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15 Oral Evidence taken before the Committee on 15 July 2009, HC 745-i, Q 19

16 Ev 48

17 Ev 76

18 Q 114

organisation. There is also a significant risk that, particularly in the first few years, a great deal of time and money will be spent establishing an organisation to carry out roles which are already being fulfilled by existing bodies. **A Legacy Commission would add real value only if it were qualified fully to take over the functions of bodies such as the Historical Enquiries Team and Police Ombudsman. It is not clear to us that it would greatly enhance the activities of bodies such as the Commission for Victims and Survivors in Northern Ireland, the Northern Ireland Community Relations Council or Healing Through Remembering, unless it were a replacement for, rather than a complement to, them.** There is a danger that Northern Ireland could become overburdened with bodies addressing the Troubles. This would be unhelpful and likely to lead to confusion for the public, with work being replicated unnecessarily, representing an inefficient use of limited resources. We believe that it would be more helpful to give greater support to existing bodies to enable them to fulfil their roles as effectively as possible.

## Implementation

31. It is clear from the reception of the report that society in Northern Ireland continues to be profoundly affected by the past. Serious issues deriving from the Troubles remain unresolved and must be addressed before reconciliation between communities can be achieved. Patricia MacBride, one of the four Commissioners for Victims and Survivors, observed that despite the hostile and emotional response that the publication of the report provoked, tensions between communities had not actually worsened as a result:

I would have to say that I do not believe that the tensions have been increased, I do believe that they have become more apparent and more open. The tensions are there, they have been there, they will continue to be there. What we have within the Report of the Consultative Group on the past is perhaps not a prescription for how we address the legacy of the conflict, what we have is a series of recommendations that may take us some way down the road to doing this.<sup>19</sup>

32. The view that tensions already existed was echoed by NIRPOA, who believed that the report of the Consultative Group had “the potential for producing a focus for existing tensions” and emphasised that the report needed careful handling as a result.<sup>20</sup>

33. Even if the tensions observed following the publication of the report were pre-existing, there is a danger that pursuing activities which do not have cross-community support could give new focus to existing differences and, consequently, prove counterproductive. The RUC GC Foundation was concerned that the implementation of the recommendations of the report would do more harm than good at present:

[...] rather than having the “overarching objective of promoting peace and stability in Northern Ireland”, much of the Report could lead to further division by opening

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19 Q 77

20 Q 114

up still raw wounds which have not had the time to heal with the potential to destabilise the embryonic political institutions.<sup>21</sup>

34. The Commission for Victims and Survivors believed an understanding had yet to be reached as to what reconciliation of communities in Northern Ireland might constitute in practice:

For some people that may mean them individually becoming reconciled with the events of the past that have impacted upon them, for others it may mean a communal reconciliation between opposing political viewpoints, and for yet more it may mean society as a whole becoming reconciled to moving forward together in a new and inclusive future. The debate therefore about the substantive nature of reconciliation has to, we believe, form part of the debate on how we together move forward and deal with the past. Even if few of the recommendations are ultimately implemented, the publication of the Report of the Consultative Group on the Past has clearly stimulated debate about the how reconciliation is to be understood and achieved in Northern Ireland, and this is to be welcomed.<sup>22</sup>

35. It may be that an open, public discussion is the only way that consensus and understanding can be built with regard to some intensely difficult questions raised by the report. Healing Through Remembering noted:

While the diverse membership of Healing Through Remembering naturally holds a variety of opinions on the individual recommendations in the Report, it feels that this Report offers an opportunity to genuinely engage on the difficult issues of the past.

[...] there is a need for a measured and reasonable debate on the recommendations and an attempt to be made to try to find a measured way of taking this issue forward. The experience of HTR is that honest inclusive debate in an appropriate environment can bring agreement on reconciliations, truth and justice by those who hold opposing views and opinions.<sup>23</sup>

36. While we accept the reasoning behind the recommendations of the Consultative Group regarding a Legacy Commission, we have serious concerns as to the practicality of such a Commission at this time. Such a Commission would have a driving role in creating the consensus by which Northern Ireland society might become united in moving on from the past, but the likelihood of success in that respect could be undermined from the beginning without sufficient cross-community desire to make such an idea work. To invest necessarily substantial sums of money in a Legacy Commission without full cross-community support would be premature and potentially counterproductive. There are simply too many issues relating to the way that the past is understood and dealt with in Northern Ireland for which no consensus yet exists, a reality encapsulated in the public response to the proposed Recognition Payment. We have already noted the danger of duplicating work already being undertaken, potentially at greater expense.

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21 Ev 76

22 Oral Ev CVSNI Q61

23 Ev 70



**37. Given the absence of cross-community consensus regarding the nature, aims or work of such a body, we believe that the conditions of cross-community consensus required for the creation of the type of Legacy Commission proposed by the Consultative Group have not yet been achieved.**

38. There is a danger that the desire to find consensus before acting could delay indefinitely the implementation of work that could in itself help build such consensus. The Church of Ireland commented:

The Report, and reaction to it, has also demonstrated that there remain huge issues on which there is no consensus. If nothing else, this demonstrates the urgent need to make a start; the foolishness of ignoring difficulties; the importance of finding a way forward for the whole community. To do nothing may be more than reckless — it may be a backward step.<sup>24</sup>

**39. We note that the Government completed its consultation on the Consultative Group's report in October 2009 and that the Commission for Victims and Survivors intends to undertake similar activities. These periods of consultation and discussion are necessary. Decisions must be taken, however, on the best way to address the past in Northern Ireland, and these decisions cannot be put off indefinitely. We recommend that the Government announces a time frame for any recommendations that it hopes to implement, following this period of consultation, and following detailed discussion with the parties represented in the Northern Ireland Assembly and, bearing in mind the imminent general election, with the Opposition at Westminster.**

## Period of mandate

40. The Consultative Group proposed that the Commission should have a statutory five-year mandate, with the Chairman of the Commission making a report on the progress that had been made in terms of helping Northern Ireland move towards a shared future and recommending any further steps that should be taken to continue the healing process at the end of this period. It hoped that the end of this five years would signify “a significant transition from the past to the future”.<sup>25</sup> The Group explained the importance of an end to such processes of dealing with the past being apparent:

The Group has also taken account of the view, made clear during the consultation, that the past should not be allowed to continue to shape the futures in a way which is unhelpful and divisive. The process, which the group proposes is therefore time-limited in order to allow the past to be the past. Some will, no doubt, view the process as enabling them to get what they want, and for some that may be no more than acknowledgement, for others justice. Others will view the process as a way of “drawing a line under the past”, and no more than that.<sup>26</sup>

41. Various witnesses expressed concern that five years would not be enough. The Northern Ireland Community Relations Council noted that some victims and survivors

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24 Ev 71

25 Report of the Consultative Group on the Past, January 2009, pp 140 -142

26 Report of the Consultative Group on the Past, January 2009, p. 56



were only now coming forward to seek support and predicted that numbers would continue to grow over the next few years:

While Council agrees with the need to have a vision and an end goal we are also of the view that this process will not be completed in a single planned moment. Instead the process of dealing with the past will require continuing attention as well as delicate and sensitive handling. We therefore believe that any institution or Commission should make recommendations on future work at the end of five years rather than drawing an arbitrary line underneath uncompleted work.<sup>27</sup>

42. Similarly, the Corrymeela Community believed that the Legacy Commission's mandate might need to be extended:

It may be that five years is too short and that the mandate should be reviewed before the end of the five year to see whether it might be appropriate to continue for a further period.<sup>28</sup>

43. Lord Eames told the Committee that the choice of five years was in fact rather arbitrary. The most important point was that the process should be time-limited:

We could have picked any figure. We chose five years for the simple reason that one of the things that came through virtually all the evidence that we had presented to us in the 18 months was that if we were not careful of setting some sort of time limit this would go on and on and on. I am obviously not wishing to defend just the figure five, but we had to choose a figure which would be realistic.<sup>29</sup>

44. We understand the underlying thinking behind the proposed five-year mandate. It is important that an end can be seen to the process of dealing with the past, in order to encourage a return to normality and allow society to begin to look forward rather than back. Dealing with the past is an on-going process, however, and it would be inappropriate to assume that the many complex issues that still need to be addressed in Northern Ireland would necessarily be dealt within a period of just five years. Some flexibility would be required.

**45. The precise time frame required by a Legacy Commission could be determined within the context of the needs of Northern Ireland, only if and when cross-community consensus was found on its role and mandate. We believe it likely that any Commission would require a five-year mandate at the very least but support the idea of a time-limited mandate in order to prevent such a body from running indefinitely and prolonging the effects of the past by so doing.**

## International commissioner

46. The Consultative Group recommended that an international commissioner be appointed as Chairman of the Legacy Commission, with overall responsibility for

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27 Ev 48

28 Ev 45

29 Q 47

supervising and directing its the work. The Group described this role as strategic, rather than operational, with specific functions in leading the attempt to tackle sectarianism and promoting reconciliation through the work of a Reconciliation Forum, of which the Chairman would be a key member. Two further commissioners would have specific responsibilities for Review and Investigation and for Information Recovery and Thematic Cases. All commissioners would be impartial, appointed jointly by the British and Irish Governments and approved by the Office of the First Minister and deputy First Minister.

47. The Secretary of State did not believe that appointing an international figure to head the Commission was necessarily the best approach:

I would beg the question as to why it might need an international chair and two other commissioners — whether or not that might be the appropriate structure. I do understand why some members of the community in Northern Ireland would feel very strongly about an international chair, so that this would be somebody who would be regarded, as it were, as not in some way carrying baggage from the past in relation to any particular community and, therefore, might be seen as being able to be more fair. On the other hand, it has always been my view that the best person should get the job based on their ability, not on anything else. So I think that is another area where there should be a sensible discussion about the kind of person it should be. I am equally concerned, for example, about a structure which could be very top-heavy in terms of international commissioners and major commissioners but might be rather light on a really good chief executive who might take on this work.<sup>30</sup>

**48. We suggest that the Commission might be more helpfully chaired by a local figure, as an active chief executive, rather than by a foreign figurehead. Northern Ireland is in a position where it is able to run its own institutions, such as the Assembly, on a cross-party basis, and that position is vital in the rebuilding of a sense of normality. While there may be political advantages in bringing an international figure to such a role, it would, at this point in Northern Ireland's progress towards lasting peace, be a much more positive move if any future Legacy Commission were chaired, or jointly chaired, by appointees from within Northern Ireland who could unite communities, with cross-community agreement and support.**

## Funding

49. The Consultative Group stated that the Legacy Commission represented “the most cost effective way to give proper consideration to outstanding historical issues”.<sup>31</sup> The Group anticipated that setting up the Commission would cost in the region of £3 million and that the annual cost would be just over £33.5 million. The total cost of the Commission over a five-year mandate would, therefore, be in the region of £170 million.

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30 Q 135

31 Report of the Consultative Group on the Past, January 2009, p 131

50. The Consultative Group recommended the creation of a £100 million bursary for addressing society issues.<sup>32</sup> The report commented:

What we will say is that even if nothing happens, this report never sees the light of day in legislation, there will be £100 million spent on HET and the Police Ombudsman's office dealing with the past and that is only the up-front part, that is not all the hidden cost. The second part is that if any other inquiry of any kind comes into the reckoning then the figures get blown out of the water. The other thing is that we have actually tasked the Irish Government with supporting this financially [...] If they put in a certain amount of money then that reduces the amount. [...] We know where it starts and we know where it ends in rough figures. No one knows how much all of this is going to cost if it continues to be fought through the policing system, the ombudsman system, the court system and the interchange between the British and the Irish Governments.<sup>33</sup>

**51. The reality of devolution must be acknowledged: much of the money required for a Legacy Commission would fund activities in the already devolved areas of health and social care, and in the field of policing and justice, which we hope will be fully devolved in the very near future. Devolution should be seen to be progressing, and, therefore, seeking such additional funding from the UK Government looks like a step in the wrong direction. We believe that any significant additional funding should be voted by the Northern Ireland Assembly, rather than the UK Government. Decisions over funding levels and, by extension, the exact nature of any Legacy Commission would, therefore, be a matter of policy choice for the Northern Ireland Executive, rather than the UK Government. It is in the long-term interest of everyone involved that such decisions be taken by those who represent the people of Northern Ireland, and that the Executive be accountable for the financial consequences of such decisions.**

## Cooperation with the Irish Government

52. The Consultative Group recommended that the Irish Government help pay for and implement the proposed Legacy Commission, collaborating in the appointment of the Commissioners and cooperating with the procedures that the Group outlined for historical inquiries and information recovery processes. The report stated:

The Group considers that, in light of the Irish Government's special interest in Northern Ireland and of the fact that the legacy of the past in Northern Ireland is of mutual concern to the Irish Government, that they should make an appropriate contribution towards costs.<sup>34</sup>

53. The Northern Ireland Human Rights Commission (NIHRC) has argued that the role of the Irish Government was "vague and contradictory" in relation to appointing Commissioners and the exact contribution that it would make towards costs.<sup>35</sup> This

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32 This estimate was challenged in evidence we received from the PSNI. See Chapter 5 for further details.

33 Q 45

34 Report of the Consultative Group on the Past, January 2009, p 137

35 Northern Ireland Human Rights Commission Preliminary Position Paper: Report of the Consultative Group on the Past July 2009, para 84

concern needs to be addressed. The Secretary of State told us that he had not engaged in formal discussions with the Irish Government as to their involvement in such a project, but hoped that the Irish Government would participate in the consultation process:

[...] on the back of this documentation that we are launching [...]we would expect the Irish Government to play a full and active role in that consultation along with ourselves.<sup>36</sup>

54. We noted in our recent Report on *Cross-Border Co-operation* that relationships between Northern Ireland and the Republic of Ireland have improved significantly in recent years, particularly between the PSNI and An Garda Síochána. We hoped that improvements would continue to be made and that both sides would work towards “even greater” co-operation in the future.<sup>37</sup> **We reiterate our previous sentiments regarding cross-border co-operation and note that, while we do not recommend that the Legacy Commission go ahead as proposed, there is scope for collaboration between the United Kingdom and the Republic of Ireland, both in terms of providing support for those affected by the Troubles on both sides of the border and the ongoing work of the Historical Enquiries Team. However, the exact role to be played by the Irish Government, and the legislative framework for such involvement, remain unclear in the report of the Consultative Group. Greater clarification is required as to the exact role of the Irish Government and any financial contribution it would make if any such Legacy Commission were to be pursued in the future.**

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36 Q127

37 Second Report of the Northern Ireland Affairs Committee, Session 2008 – 09, Cross-border co-operation between the Governments of the United Kingdom and the Republic of Ireland, HC 78, p 6

## 4 Promoting Reconciliation

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### Financial support for victims

55. We have already noted that the Consultative Group's recommendation that £12,000 be paid to the families of all those killed in the conflict provoked real outrage among some victim and survivor groups and politicians. This was reflected in much of the evidence that we received, and such depth of feeling cannot and should not be ignored. However, there is a need to look at the matter of financial support for victims in Northern Ireland in a more measured manner. The recognition payment did not derive solely from the minds of the Consultative Group without any evidential support. It was proposed as a response to two desires expressed to the Group by a number of those bereaved during the Troubles, namely a desire for recognition and a desire for financial recompense. In relation to financial recompense, the report comments:

Concerns about compensation, expressed during the consultation, largely relate to the amounts paid in the 1970s and 1980s to the families of people killed as a result of the conflict. There was almost unanimous agreement that many payments were inadequate, not least because compensation was primarily based on loss of earnings and did not take into account the loss felt by the family.<sup>38</sup>

56. Concern regarding the financial support available to victims was echoed by the Commission for Victims and Survivors in Northern Ireland, which acknowledged the strength of the public reaction to this recommendation, but supported the proposal on the basis of financial need. Patricia MacBride told the Committee:

[...] there is no doubt that there is a lack of public consensus or support for that particular recommendation at this time. In terms of how we as a Commission approached it, we took a very pragmatic approach to the idea of a recognition payment. We deal on a daily basis with people who have real and genuine need [...] We have a huge number of people who have been under-compensated or not compensated but the money simply does not exist to revisit the issue of compensation and to pay people what they would have expected or what they felt was due to them as a result of the loss or injury that they sustained, so we took a corporate, very pragmatic approach that this £12,000 would address need in some of those instances. It is fair to say that one of our colleagues took a position that he felt that because the recognition payment was not targeted specifically at need and because it had the potential to create division within families who may not agree as to whether to take the money, or indeed whom within the family should receive it, it was probably not a good recommendation, but overall as I say the corporate view was that we welcomed the payment.<sup>39</sup>

57. Several witnesses expressed similar views. For example, the Northern Ireland Community Relations Council told us:

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<sup>38</sup> Report of the Consultative Group on the Past, January 2009, p. 91

<sup>39</sup> Q 69

Council does not have a fixed view on the appropriateness of an acknowledgement but we acknowledge the spirit in which [the Recognition Payment] was conceived and recognise that the many different circumstances within the victims and survivors sector create difficulties for some. At the same time, we are also aware that this proposal would address real hardship issues for others. Their needs must be addressed and enhanced individual support should be considered through mechanisms such as the Memorial Fund.<sup>40</sup>

58. The Corrymeela Community also noted:

The Consultative Group's proposal on a recognition payment to the nearest relative of someone who died as a result of the conflict has been deeply controversial and will almost certainly not proceed. However, there are significant hardship issues among some victims and survivors which need to be considered. Numerous individual victims and survivors are not catered for by existing groups, community and voluntary organisations, and statutory services, etc. In addition, victims and survivors have a diverse range of needs and this required to be recognised.<sup>41</sup>

59. The Secretary of State acknowledged that this recommendation had been made on the basis of evidence received by the Consultative Group in the course of their consultation and that such a payment would be welcomed, at least by some. For this reason he invited views on this recommendation as part of the consultation into the report of the Consultative Group launched by the NIO on 24 June, despite having earlier played down consideration of any payment in the proposed form.

[...] in reaching this recommendation (and in subsequent discussions I have had with the Consultative Group), I am very firmly of the view that this was not an idea promulgated only by the group; nor, indeed was this an idea solely from one section of the community in Northern Ireland. I believe, therefore, it is important, as we live in a democracy, that, despite the views that I have expressed about what I am minded to do, which clearly reflects the Government's position, nonetheless, we allow, however much of a minority voice it may be amongst some parts of Northern Ireland, people to put forward their arguments for and against this proposal. So I am entertaining, and I would have to have, very strong cogently argued arguments for and against this proposal; not because I have changed my position but because I genuinely believe Eames and Bradley reflected proposals they have heard. I think, in good faith they reflected them in their Report, but perhaps they took them a little far into formulating them into a permanent recommendation.<sup>42</sup>

60. It should be recognised that there is a need for greater financial support to be made available for victims in Northern Ireland. Compensation has not been adequate or consistent in many cases. However, financial need must be disaggregated from the separate desire for recognition. If it is not, any attempt to address the needs of victims will be in

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40 Ev 48

41 Ev 45

42 Q 118

danger of becoming a matter of political and cross-community division, in the same manner as the proposed recognition payment did. Lord Eames emphasised that:

This was not about compensation. None of us have the moral right to put a figure on any human life. It is about humans and human suffering. At the root of this question is simply this: who is a victim?<sup>43</sup>

61. The proposal was clouded by an attempt to combine a response to financial need with the desire for victims to be recognised in some way. Patricia MacBride, one of the four Commissioners for Victims and Survivors, suggested that the Legacy Commission could constitute a means of addressing the needs of victims and survivors through adopting a broader role in improving services for victims:

[...] what I am hopeful of is that the package of measures that is delivered as a result of addressing societal need will in some way ensure that people's needs are met. It may not be through a recognition payment; if it is through improved services that people require to help them deal with the past, if it is through the delivery and investigation and it addressed need that is far more important than whether the money comes to them as a £12,000 cheque into an individual household or whether it is streamed through a methodology for addressing their needs.<sup>44</sup>

62. The Northern Ireland Community Relations Council also suggested that support is needed by those other than the bereaved who have been affected by the Troubles and noted that the recognition payment “does not take those who have suffered physical injury and mental trauma into account and this has caused considerable upset and anger in some quarters.”<sup>45</sup> The Northern Ireland Human Rights Commission has similarly noted the absence of references to other kinds of human rights abuses in the report of the Consultative Group:

[...] in the Report there is no reference to violations of human rights short of killing; whilst great attention is given in the document to the need for what might be termed “macro” or “big picture” truth, the Report does not address in any significant detail issues around injury, sexual violence, including rape, torture, maltreatment, violations of property rights, violations of rights of association, assembly and expression, and so on [...] <sup>46</sup>

**63. We note that in August 2009 the Office of the First Minister and Deputy First Minister published proposals for consultation on the establishment of the Victims and Survivors Service. This is to be welcomed and will improve support to both Victims Groups and individuals affected by the Troubles. We hope that the Northern Ireland Executive will implement this service as soon as is practicable.**

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43 Q 1

44 Q 72

45 Ev 48

46 Northern Ireland Human Rights Commission Preliminary Position Paper: Report of the Consultative Group on the Past July 2009, para 26



64. We believe that there is a need for greater financial support and services to be made available for those affected by the Troubles in Northern Ireland and share the view that this should include those physically and psychologically injured by these events.

65. We commend for consideration by the First Minister and Deputy First Minister the establishment of a fund to be operated on the basis of criteria which command cross-community support.

### Defining “victims”

66. The strength of the public reaction to the proposed recognition payment reflects the reality that the way in which victims and survivors are defined remains a matter of difficulty for communities in Northern Ireland. In the course of their consultation, the Consultative Group encountered a need for some kind of recognition of suffering from families in all aspects of the conflict. In relation to the proposed recognition payment, Lord Eames told the Committee:

[...] time and time again during the consultation period we were urged to produce something which would give recognition to the trauma and suffering of those left behind. They range from the families of security forces, including families of British soldiers who served in Northern Ireland but then still lived on the mainland, from families of the UDR and the RUC victims of the Troubles to civilians caught up in the tragedy. There was a widespread feeling that once the media spotlight and sympathy from their local community passed away from a family after a funeral, society forgot about them. Politicians, social workers and victim’s groups were among those who urged that some recognition of this human reaction must be found in our Report. There were words like ‘there is no difference between a mother’s tears’ [...] This was not about compensation. None of us have the moral right to put a figure on any human life. It is about humans and human suffering. At the root of this question is simply this: who is a victim?<sup>47</sup>

This question lies at the heart of much of this difficulty surrounding the reconciliation of communities in Northern Ireland.

67. The legal definition of a “victim” in Northern Ireland, as adopted by the Consultative Group, is contained within the Victims and Survivors (Northern Ireland) Order 2006, passed at Westminster before the resumption of devolved government in May 2007. It classifies a “victim” as:

- a) someone who is or has been physically or psychologically injured as a result of or in consequence of a conflict-related incident;
- b) someone who provides a substantial amount of care on a regular basis for an individual mentioned in paragraph (a); or



- c) someone who has been bereaved as a result of or in consequence of a conflict-related incident.<sup>48</sup>

68. This definition was discussed in the Seventh Standing Committee on Delegated Legislation in the House of Commons, which debated the draft Victims and Survivors (Northern Ireland) Order on 1 November 2006. That Committee was attended by members of the Northern Ireland political parties which sit at Westminster, including members of our Committee. It must be noted that that Committee had no power to amend the Order. There was cross-party acknowledgement that the definition, while presenting a challenge for the people of Northern Ireland, was the only way to avoid a “hierarchy of victims”. The draft Order was debated in House of Lords Grand Committee on 25 October 2006. The motion passed without division in both Houses. During the Commons debate, the then Minister of State for Northern Ireland, David Hanson MP, commented:

We define victims and survivors as people who define themselves as victims and survivors. I do not wish to draw an artificial distinction between a person who, for example, might feel hurt because they were involved in an incident that resulted in their family being killed by a bomb in a major city in Northern Ireland and a relative of somebody who was killed in conflict with the British Army or others.<sup>49</sup>

69. Mr Bradley told us that it was not within the Consultative Group’s mandate to challenge that definition:

That is the definition of this House. We are not in a position, nor did we desire to go and seek the changing of that definition. That definition came about, not out of the blue; it came as a result of a number of reports. Sir Kenneth Bloomfield had already done two reports, Bertha McDougall, who was the interim Victims Commissioner, had also done a report, and it was quite clear that within those reports this issue about who a victim was could not be grasped.<sup>50</sup>

He acknowledged, however, that the issue of how victims are defined remains a barrier to peace in Northern Ireland:

The truth of the matter is that in Northern Ireland we are still fighting about who a victim is or who a victim is not [...] <sup>51</sup>

The Commission for Victims and Survivors emphasised to the Committee that they are statutorily required to work with the current legal definition. They told us that they undertook their work from the perspective of addressing the needs of everyone who approached them:

We as a Commission as four individuals regardless of our corporate togetherness on the issue of working to the statutory definition, define a victim or survivor of the conflict based upon the need that they present to us. We define a human face, we

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48 SI no. 2953 (N.I. 17)

49 HC Deb 1 November 2006, Seventh Delegated Legislation Committee, col 6

50 Q 2

51 Q 3

define the needs that walk through our door, we define the needs that are sought out to be addressed with our assistance. You cannot simply categorise an individual because of the circumstances of their loss, you have to have the capacity to consider the human impact of the conflict on these individuals.<sup>52</sup>

70. Many of the submissions we received noted issues surrounding the definition of “victim”. The Northern Ireland Community Relations Council, for example, believed the current definition should be either reaffirmed or altered.<sup>53</sup> A submission from FAIR, a victims’ support group, contrastingly described the definition as “erroneous”.<sup>54</sup>

71. The existing legal definition of “victim” focuses on those left behind rather than those who died. This facilitates the work being done by bodies such as the Commission for Victims and Survivors, who provide support to people affected by the Troubles; it is the living who need such support, not the deceased. However, the definition clearly does not reflect the everyday understanding of a “victim” as expressed by many of those who found the recommendation of the Consultative Group so offensive, for whom the term “victim” clearly reflects some sense of innocence. The submission from the RUC GC Foundation highlighted this disparity:

A great sense of hurt was generated by the definition of “victim and survivor” found in the Victims and Survivors (Northern Ireland) Order 2006 — a definition which has been followed by the CGP. The definition of a “victim” in the Oxford English Dictionary reads “a person harmed, injured or killed as a result of a crime or accident”. This definition is much preferred.<sup>55</sup>

72. The controversy surrounding the recommendation on recognition payments once again demonstrates the continuing relevance of language in dealing with the past in Northern Ireland. **The definition of a “victim” provided by the Victims and Survivors (Northern Ireland) Order 2006 is currently the accepted legal definition of “victim”, and should remain so until such time as an alternative gains cross-party support within the Assembly. However, it is clear that further public debate is needed in order to build a clear consensus on this issue. It will ultimately be for the Northern Ireland Assembly to establish an accepted understanding of who constitutes a “victim”.**

## Reconciliation Forum

73. The Consultative Group recommended that a Reconciliation Forum be established, through which the Legacy Commission would work with the Commission for Victims and Survivors for Northern Ireland (CVSNI) to address various social issues arising from the conflict. This would include working to address sectarianism; promoting remembering activities; working with young people; providing improved services for healthcare needs; ensuring an even spread of economic benefits; and helping those exiled from Northern

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52 Q 83

53 Ev 48

54 Ev 39,

55 Ev 76

Ireland during the conflict to return. The Forum's function in relation to these activities would be to:

- analyse the activity undertaken to address these issues;
- consider the need for further activity including the need to address any gaps, and, drawing on the expertise within the membership of the Forum, to assess what would make the most impact;
- give advice on policy to Government and other policy makers;
- advise on strategies to enable the focused targeting of needs and the promotion of best practice, drawing on local, national and international experience;
- advise on the development and delivery of services; and
- decide on priority areas of activity and assist in influencing others to take those priority areas into account in the development of their policies and allocation of their resources. The members of the Forum should also work to ensure that their respective organisations take account of these priority areas.<sup>56</sup>

74. The Consultative Group recommended that the Commission for Victims and Survivors should take responsibility for convening this Forum and that the Chairman of the Legacy Commission and the Northern Ireland Community Relations Council should be key members. It suggested that other bodies and groups could be invited to specific meetings, depending on the issues being discussed. We asked the Commissioners for Victims and Survivors whether they would be content with this role. They replied:

We are happy with the concept. I have to say we are a wee bit uncomfortable with the use of the word “forum” and concerned that that might be somewhat misleading by creating an expectation of large numbers of people engaged in this. We know from discussion with the Consultative Group that they envisaged the key agencies who have responsibility for societal matters — principally ourselves, the Community Relations Council and any new body created out of the Eames-Bradley Report — that this would be a tripartite mechanism that the Commission for Victims would convene to address these matters.<sup>57</sup>

75. Particular strategic concerns in relation to the provision of services to victims and survivors clearly need to be addressed. The Consultative Group's report noted:

In some localities a number of victim and survivor groups showed how they had worked in some collaboration with one another. But in other cases several different groups had been delivering similar services in the same locality and were competing for limited resources. Too often the knowledge and experience of the best ways of meeting the needs of victims and survivors were not shared among groups and the opportunity to share valuable experience was lost. The reasons for this were complex

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<sup>56</sup> Report of the Consultative Group on the Past, January 2009, pp 139 - 140

<sup>57</sup> Q 61

but a major factor was the lack of interaction between groups representing different communities and, in some cases, the same community.<sup>58</sup>

76. The Consultative Group further noted that some victim and survivors groups had a tendency to become agents with specific political ends and “claim to represent more than they actually do”.<sup>59</sup> This inevitably leads to the exclusion of those who feel that such groups do not represent their own views.

77. Evidence to this Committee reflected the view that strategic provision of services could be improved, particularly with regard to provision of mental health services for those affected by the Troubles. Mr Raymond White from the Northern Ireland Retired Police Officers Association observed:

We were very fortunate in respect of the Patten Agreement; it recognised the heavy psychological impact that the four decades of the Troubles had on our membership and as a consequence of that the PRRT was established at Maryfield. They have ten psychologists in employment, seven of which as it were are looking after the interests of serving and retired police officers. Some 250 new cases are still presenting themselves on an annual basis to those people, so you can estimate for yourself the number of ongoing new cases — that is not people who have been treated and put back into care of the National Health Service, this is 250 new presentations each year in respect of their services.<sup>60</sup>

78. We visited the PRRT facility at Maryfield, on the outskirts of Belfast, during the course of this inquiry and saw the range of services it offers to serving and former police officers, and to their families, including children who have suffered trauma as a result of the work done by their fathers and mothers in policing Northern Ireland. These officers and families have sometimes had to deal with varieties of trauma and levels of danger more akin to military than civilian service. We pay enthusiastic tribute to the work done at the centre in enabling serving officers and their families to deal with the conditions they face and in helping retiring officers to make the transition towards new interests in employment or in education, after their years of service.

79. The Consultative Group identified issues surrounding the provision of healthcare and sufficient services addressing trauma. The report noted that “[t]he provision of mental health services needs to take fuller account of the mental health legacy of the conflict and reflect this in both the provision of services and ongoing operational priorities”.<sup>61</sup> Lord Eames hoped the Legacy Commission would help resolve some of these issues:

There are some tensions still existing between the voluntary independent sector and the statutory sector around [the treatment of psychological trauma relating to the

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58 Report of the Consultative Group on the Past, January 2009, p. 85

59 Report of the Consultative Group on the Past, January 2009, p 87

60 Q 103

61 Report of the Consultative Group on the Past, January 2009, p 88

Troubles]. That has not resolved itself and part of what we put in to the Legacy Commission was a task that would actually coordinate some of that.<sup>62</sup>

80. The Commissioners for Victims and Survivors similarly believed that the existing inconsistency of approach to mental health services and treatments was an example of the need to encourage more strategic provision and coordination:

[...] within the health field it is a concern that there is a lack of consensus in Northern Ireland about a concept of conflict related-trauma. There is a lack of agreement among theorists, academics and practitioners about the best models for treatment — indeed whether the medical concept of treatment is appropriate — and there is no clear agreed strategy for the whole of our society. Within health trauma is an example of a profound issue which needs urgent work done and strategic thinking applied to it, we would like to think that in the kind of mechanism envisaged by the Consultative Group there would be a place where three important perspectives could meet, each of them having a view on health needs based on their work.<sup>63</sup>

**81. There is a need to ensure that physical and psychological services and support are available to all who need them. The need for adequate healthcare services is of particular concern. However, we are not persuaded that the Reconciliation Forum as proposed will necessarily add value to existing bodies such as the Commission for Victims and Survivors. The aims of the Consultative Group might be more effectively and efficiently delivered if such bodies empowered to take on a wider strategic role in coordinating and developing existing services for victims and survivors.**

### *Funding services for victims and survivors*

82. The Consultative Group recommended that a £100 million bursary be made available to the Reconciliation Forum in order to support its activities. The report commented:

Many strong views were expressed about the inadequacy of funding that is generally available to meet the needs of, and provide services for, victims and survivors. The chief criticism was the lack of strategic focus evident in the piecemeal and short-term approach to funding. Many groups argued that this impacted on their ability to secure and retain good staff in the longer term and ignored the fact that often the needs of victims and survivors do not emerge for a long time after a traumatic event.<sup>64</sup>

83. The need to ensure continued funding for services to victims and survivors was reflected in the evidence we received. Again, funding for healthcare provision was a particular concern identified by various witnesses. Submissions from the Northern Area Trauma Advisory Panel and TMR Healthcare Professions noted:

The Report recognises the value of the work already undertaken by the myriad of non-statutory groups and many of the statutory organisations but this has, overall,

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62 Q 46

63 Q 66

64 Report of the Consultative Group on the Past, January 2009, p 86

been a very “piecemeal” approach. The approach was revenue dependent and the DHSSPS and local government agencies never fully addressed the level of commitment to long term funding policies that would embed the range of trauma services into core health and social care provision.<sup>65</sup>

84. The Corrymeela Community also emphasised the importance of the work being undertaken by these organisations:

It is important that the Trauma Advisory Programme is maintained. This programme has brought much good support to victims on the group, specific to their needs and has gained much learning from its work. Many of its programmes are systemic, address the relationships of the family and some reconciliation components. Many of the victims who would not have found support through the “normal” (perceived as medical) system have found much to aid them in their recovery. All such holistic programmes must be encouraged.<sup>66</sup>

**85. Existing healthcare services for those bereaved and injured during the Troubles are under pressure, particularly mental health services. We encourage the Northern Ireland Executive to give these matters serious consideration. We recognise that £100 million is a very large sum, and it might be put to more productive use in finding a scheme to help those injured or bereaved, as proposed in paragraph 65 of this Report.**

### *Remembering activities*

86. The Consultative Group discussed at length the importance of activities aimed at promoting reconciliation through remembering. The report commented:

Whether and how the past should be publicly remembered featured heavily in the consultation. Many groups and individuals shared their view that public remembrance is a crucial element of healing a post-conflict era. It allows them to reflect openly on the past and come to terms with its impact upon their life. It is an important way of celebrating and honouring the lives of those who were lost in the conflict. It provides a way of rebuilding, pointing to the shortcomings of the past, and shaping resolve for a different future.<sup>67</sup>

87. The Consultative Group envisaged a role for the Chairman of the Legacy Commission, through the Reconciliation Forum, to promote storytelling schemes and memorial projects and to develop the concept of a day of shared reflection, presently existing as the Day of Private Reconciliation organised by Healing Through Remembering on 21 June. The Group concluded that at present a physical or living shared memorial would not be appropriate, as such a project “remains a contentious issue for many and poses many challenging issues around which we could not see any consensus”.<sup>68</sup> However, they believed that storytelling activities were important as a means for individuals to come to terms with the conflict and promote wider social reconciliation:

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65 Ev 64

66 Ev 45

67 Report of the Consultative Group on the Past, January 2009, p96

68 Ibid, p 104

[...] storytelling is a means of confronting their past and articulating their stories, involving elements of both narrative and moral reassessment. Through storytelling, people realise that, although they feel their cause was just, not all that they did in pursuit of it was either the right thing to do, or altogether necessary.<sup>69</sup>

88. The Consultative Group recommended that whoever chairs the Legacy Commission should encourage the collation of stories in some form of archive and “seek to influence the criteria for receiving funding in order to ensure that storytelling initiatives have reconciliation at their heart.”<sup>70</sup>

89. The Day of Private Reflection was launched on 21 June 2007 by Healing Through Remembering as an opportunity for remembrance and private consideration of the consequences of the Troubles in Northern Ireland.

90. The Consultative Group supported this idea and praised Healing Through Remembering for its work in implementing the day. It recommended that this concept be developed and taken further over time, remaining as a private day initially, but evolving to include more public events, when appropriate. This, it said, would include a keynote speech by the First Minister and deputy First Minister reflecting upon the past “in a positive way and to confirm their commitment to lead us towards a shared and reconciled future”.<sup>71</sup> The day would also be renamed “a Day of Reflection and Reconciliation”.

91. The evidence that we received in relation to the recommendations of the Consultative Group was largely supportive of moves to promote these kinds of remembering activities and the Day of Reflection, in particular.<sup>72</sup> However, there was concern that Northern Ireland was not entirely ready for all of the Group’s proposals in this regard. The Corrymeela Community commented:

Rituals of remembering are important if society is to establish a sense of the common ownership of the past and to offer an opportunity for people to participate in an event that collectively remembers and reflects. A movement from a Private Day of Reflection to an Annual Day of Reflection is to be encouraged but a Day of Reflection and Reconciliation may be a step too far at this time. The involvement of Northern Ireland politicians in key note addresses etc could be important as long as it is not about telling politicians what to do.<sup>73</sup>

92. It was also emphasised to us that it is important to allow individuals to choose when and how to participate in remembrance activity.<sup>74</sup> This concern was acknowledged by Lord Eames:

[...] one family’s remembrance is a very individual act on their part, what they want to remember, how they want to remember it, and I would always want to protect the

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69 Ibid, p 98

70 Ibid, p 141

71 Ibid, p 101

72 Ev 76, 71 and 70

73 Ev 45

74 Ev 76



right of a family to have their say in how they are left to remember a loved one. That I think is vital. The trouble with our Report and the trouble with our thinking which produced the Report is that to magnify that onto a community site, a community level and a community broad site, it is almost impossible to encompass all the various attitudes to remembrance that there are in Northern Ireland society at the moment.<sup>75</sup>

**93. Storytelling activities and events, which encourage both private and collective remembrance and reflection, have already assisted in promoting reconciliation in Northern Ireland. Any Legacy Commission established in the future may have a role to play in terms of encouraging the development of such initiatives, in liaison with other public bodies engaged in this field. In the meantime, there should be continued support for organisations such as Healing Through Remembering presently undertaking such projects. We emphasise that consensus must be the basis for taking forward initiatives such as the Day of Reflection. Not everyone will feel able to participate in collective remembrance and this should be understood. It is important that leading political, church and other community representatives should be seen to show the way towards reconciliation.**



## 5 Policing the Past

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### Ongoing historical enquiries

94. The Consultative Group recommended that all aspects of historical investigation and information recovery be brought within the remit of the Legacy Commission, with the hope that this would “promote an approach which is more coherent and more focused on the needs of victims and society”.<sup>76</sup> Under the Group’s recommendations, a new independent Review and Investigation Unit would be formed to take over the work of the Police Service of Northern Ireland’s Historical Enquiries Team and the Office of the Police Ombudsman of Northern Ireland, which are currently reviewing all historical cases. The new Unit would review historical cases to establish whether there was “a reasonable prospect of obtaining sufficient evidence to warrant prosecution, and if necessary, to conduct that further investigation”.<sup>77</sup> This would be headed by a separate Commissioner, and would relieve the Historical Enquiries Team and the Police Ombudsman from the burden of these inquiries.

95. Discretion over whether to engage in a substantive investigation in the course of reviewing a case would lie in the hands of the Commissioner for Review and Investigation. Further investigation would be undertaken only where there was a clear case for doing so. On the advice of the Commissioner for Review and Investigation, the Chairman of the Commission would decide whether to refer a case to the Director of Public Prosecutions to consider any possible prosecution. The Consultative Group recommended that this aspect of work should begin by late 2010.

96. Mr David Cox, Head of the Historical Enquiries Team told us that as of July 2009, 565 reviews had been completed, out of a caseload of 2,550. Reports had been delivered to families in 290 of those completed.<sup>78</sup> As of April, HET had re-opened 1,427 cases altogether, representing 56% of the incidents within its remit.<sup>79</sup>

### *Implications of transferring responsibility*

97. In our 2008 Report, *Policing and Criminal Justice in Northern Ireland: the Cost of Policing the Past*, we expressed concern that the burden of the work on the Police Ombudsman and on the Historical Enquiries Team “might compromise the ability of the PSNI to fulfil its primary role of policing the present”.<sup>80</sup> We also noted the potential benefits of an independent body undertaking these functions. However, we did not offer any firm recommendations regarding the future of historical investigations, in order to avoid pre-empting the conclusions of the Consultative Group. It is clear that concerns remain in some quarters regarding the work of HET, and the evidence that we received

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76 Report of the Consultative Group on the Past, January 2009, p 127

77 Ibid, p 144

78 Oral Evidence taken before the Committee on 15 July 2009, HC 745-i, Q 10

79 Ev 41

80 Third Report of the Northern Ireland Affairs Committee, Session 2007-08, *Policing and Criminal Justice in Northern Ireland: the Cost of Policing the Past* HC 333, para 29

about the possibility of removing responsibility for historical investigations from the PSNI and the Police Ombudsman was mixed. The Corrymeela Community commented:

The work that the Historical Enquiries Team [...] is doing and the investigations of the Police Ombudsman are important, and it is vital that this work continues. However, the proposal that a new Review and Investigations Unit would take over the work of the HET and the Police Ombudsman's Unit would have the advantage of freeing up the Police and the Police Ombudsman to focus on policing now.<sup>81</sup>

However, the RUC GC Foundation believed that:

[...] the PSNI should be properly resourced to undertake the investigation of historical cases rather than creating an "independent unit" to take such investigations forward. Ultimately neither the Historical Enquiry Team [...] nor the Police Ombudsman of Northern Ireland [...] have any information of their own. They rely totally on the PSNI, security services and retired police officers for information. In reality other institutions are not needed — what is needed are people who know their way around the system which existed or currently exists.<sup>82</sup>

98. The Northern Ireland Human Rights Commission discussed the practical difficulties associated with transferring responsibility, particularly in terms of staffing:

There is an argument that oversight and staffing could be placed on a more independent footing if investigations became the responsibility of a new specialised agency. However, there is a concern that given the timescale and problems already encountered in relation to recruitment, that staff presently carrying out the work of HET and those working on the historical cases referred to O would in all likelihood be recruited to carry out review and investigation under the auspices of the Legacy Commission. To recruit and train large numbers of new investigators with the equivalence of police powers, and with policing-level investigative skills and standards, is likely to require considerable time and may not be achievable [...] <sup>83</sup>

99. This observation raises a question as to whether the Legacy Commission would truly be seen to be more independent than the Historical Enquiries Team, given that it would likely be largely staffed by the same individuals. The Northern Ireland Human Rights Commission also suggested that unifying the roles of both the Historical Enquiries Team (HET) and the Police Ombudsman (OPONI) under the Legacy Commission could raise concerns over the accountability of this Unit:

By merging OPONI's historical case-work function with HET, it will mean that the new merged structure will not only be based in the same office but will be reviewed by the same body, the Legacy Commission, that is operationally directing its work. In terms of oversight the proposal to appoint an independent Commissioner of international standing would answer some of the criticisms levelled at the proximity

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81 Ev 45

82 Ev 76

83 Northern Ireland Human Rights Commission Preliminary Position Paper: Report of the Consultative Group on the Past July 2009, para 51

of HET to PSNI, and the fact that the oversight function for the HET rests with the Chief Constable. It has taken considerable effort to establish OPONI as an independent oversight body charged with investigating allegations of police misconduct. However the Commissioner for Review and Investigation, as a member of the Legacy Commission, would in effect be overseeing the work of the Commission of which he or she is part, and of course if the Commission is ultimately a body appointed and funded by Government, there will inevitably be those who question the extent of its independence.<sup>84</sup>

100. The Northern Ireland Retired Police Officers Association was also concerned about the implications of conferring policing powers upon the Legacy Commission without any mechanism for handling complaints:

[...] the proposals for the Legacy Commission make no reference to any form of appeal mechanism, accountability or control. We went through and we are still going through a horrific experience at the hands of the Police Ombudsman's Office partly because, completely contrary to the clear provisions of Article 13 of the European Convention, when the government established the Ombudsman's Office no mechanism was put in place for anybody to challenge the conduct of the Police Ombudsman's Office for their handling under the Office. There is a mechanism for addressing issues of maladministration, which is common with other parts of the Ombudsman structure in the UK, but the Ombudsman's Office has police powers; it has powers to arrest, search, detain, interrogate and recommend for prosecution. Any other body in the UK which has those powers would have a complaints system. There is no complains system for the Ombudsman's Office; and we fear that the same thing might happen with the Legacy Commission.<sup>85</sup>

101. The issue of accountability clearly must be addressed before any transfer of functions could occur. We note that the NI Human Rights Commission concluded that additional resources should be provided to the Historical Enquiries Team and the Police Ombudsman in order to allow these organisations to complete the review of historical cases, rather than supporting the transfer of functions to the Legacy Commission.<sup>86</sup>

## Costs

102. The realities of the cost of undertaking historical investigations must also be considered. Mr Bradley told us that it was difficult to quantify how much money was being spent and could be spent in the future on dealing with the past in Northern Ireland under current arrangements. The Consultative Group estimated that more than £100 million would be spent over the next few years on the Historical Enquiries Team and the Police Ombudsman in dealing with the past.<sup>87</sup> Sir Hugh Orde queried this projection:

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84 Ibid, para 53

85 Q 110

86 Northern Ireland Human Rights Commission Preliminary Position Paper: Report of the Consultative Group on the Past July 2009, para 64

87 Q 45

The CGP Report referred to costs of £100 million for existing operations. I am not privy to the calculations they considered; the HET is funded by the NIO for £12.3 million for the next two years. That will end the current funding of £34 million; estimates are that the HET, if unchanged, would require a further two to three years work. At the same approximate level of spend, that would cost an additional £18 million, a total of £52 million for all cases.<sup>88</sup>

103. It is clear that the issue of the cost of historical enquiries remains a matter of debate. Significant sums would be involved in transferring functions to the Legacy Commission. Sir Hugh expressed further concern about the logistics of moving responsibility for historical investigations away from the PSNI:

I have serious concerns that the logistical implications for taking the HET outside the police environment have not been fully appreciated. At present, it operates under my authority and with the full resources of the PSNI in support. This allows use of police facilities, support for HET operations from specialist sections, access to files, records, intelligence and communications, health and safety and security support, trusted access to internal departments and external partner agencies, IT equipment and support, vehicles and buildings and running costs associated with them, executive management level support, free HR and specialist financial support and media management

These are the 'hidden costs' borne by the PSNI and accepted as part of our input into the project in support of the NIO funding.<sup>89</sup>

104. We have recommended that the Legacy Commission should not go ahead until cross-community support for such a project can be established within the Northern Ireland Assembly. In the meantime, we would expect responsibility for historical enquiries to remain with the Historical Enquiries Team and the Police Ombudsman.

**105. If and when a Legacy Commission were established, serious debate would be required on its taking over the task of reviewing historical cases from the Historical Enquiries Team and the Office of the Police Ombudsman for Northern Ireland. The logistics involved in transferring these activities would be complex and costly, and questions arise over the real benefits to be gained from doing so. Unless it can be shown beyond reasonable doubt that a new situation would be significantly more efficient, effective and economical than is the case under the present arrangements, we recommend that historical investigations continue to be carried out by the Police Ombudsman and the Historical Enquiries Team.**

## Truth recovery and thematic investigation

106. The Consultative Group recommended that the Legacy Commission should conduct a process of information recovery and examination of linked or thematic cases emerging from the conflict, such as paramilitary activity or alleged collusion. These activities would be carried out through a distinct process within the Legacy Commission, separate from the

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88 Ev 41

89 Ev 41

historical investigation procedure and under a separate Commissioner. The Commission would have the power to compel the production of papers and the attendance of witnesses, and participants would have the right to legal representation. Both information recovery and thematic examination processes would be without public hearings, to allow “a more frank exchange of information and acknowledgement of past wrongs, which would both facilitate the emergence of truth and promote the process of reconciliation”.<sup>90</sup>

107. The Consultative Group emphasised that people giving information needed to be able to do so without fear of prosecution. However, no general amnesty from prosecution is recommended for those giving statements. Instead, the Group proposed that participants be allowed to make Protected Statements, which would not be admissible in criminal or civil proceedings against the person making them. It would be the statements themselves that were protected, rather than the individual, who could still be prosecuted should further evidence come to light. To prevent this procedure from interfering with future or ongoing court cases, the Group proposed that prospective cases for the information recovery process must have undergone review or investigation to see whether there was any case for prosecution, before any person could provide information under the rules of information recovery. Nor could people give the same evidence outside the Commission with impunity—to the press, for example. The Group believed that it was necessary to develop such a mechanism in order to offer families an alternative to prosecution. They commented:

Throughout the Group’s consultation it was evident that, while we have left the violence behind us, we have found new ways to continue the conflict. This is evidenced by the contention around the language used when describing the conflict and those who played a role in it.<sup>91</sup>

108. Several witnesses have identified serious concerns about the system described by the Consultative Group. Sir Hugh Orde was not convinced that the two aims of Information Recovery and Thematic Investigation could be so easily separated:

Experience of major crime investigation — and or HET work — teaches that a broad, methodical and structured investigation will tease out all the relevant issues in a case. Information recovery is traditionally a by-product of effective investigation; thematic investigations are informed by trends identified during investigations. I do not attach much credence to the prospect of former paramilitaries engaging with any process to assist in “truth recovery” or helping families.<sup>92</sup>

109. The proposals relating to protected statements have been particularly criticised, in terms of practicality and as to whether the proposals constitute a de facto amnesty. Lord Eames and Mr Bradley have denied that this is case, and the report stated that an amnesty was not the aim of these proposals:

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90 Report of the Consultative Group on the Past, January 2009, p 128

91 Report of the Consultative Group on the Past, January 2009, p 66

92 Ev 41

This would not amount either to amnesty or general immunity from prosecution. It does not provide a means for people to escape justice. The concept is to give protection to the statement, not general immunity to the person.<sup>93</sup>

110. However, several witnesses believed that this was the reality of their recommendations nonetheless. Mr Cox, Head of the Historical Enquiries Team, believed the system of protecting statements, but not individuals, “probably would” amount to a de facto amnesty and told us he would not be particularly comfortable with such a system:

[...] I do not know that it would work. The structures and organisations that exist have evolved over the years for a very good reason. They are the tried and tested methods of conducting investigations and trying to establish facts. They all include the checks and balances and protections for individuals that they should, and I think you tamper with them at your peril. On a personal basis, no, I am not hugely in favour.<sup>94</sup>

111. The Northern Ireland Human Rights Commission stated that this mechanism of protected statements would be “tantamount to an amnesty”.<sup>95</sup> It also raised questions regarding the lack of public hearings and formal parties to proceedings, the availability of legal aid and the fact that only the Legacy Commission would be able to examine witnesses:

[...] it appears to indicate a highly formalised system of hearing testimony through a cross examination of witnesses conducted by the Legacy Commission. As such, there must be clear procedural safeguards for alleged perpetrators. There is a danger that in adopting a more victim-centred approach that Article 6 (right to a fair trial) may be breached.<sup>96</sup>

112. Mr White of the Northern Ireland Retired Police Officers Association highlighted the impact that such investigations can have on the lives of retired police officers.

[...] we now have ten years of retrospective investigation, from public inquiries to controversial inquests, to HET inquiries, the Police Ombudsman inquiries and a disproportionately small number of our officers who either served in Special Branch or served in CID are now almost on call, as it were, as unpaid public servants to be at the beck and call of whoever wishes to revisit the past. This is our fear, that in respect of the Legacy Commission this is yet another imposition [...] I am seven years now approaching retirement; I have not had a year in retirement that I have not had a letter arriving either from a public inquiry or the Police Ombudsman’s Office in relation to, as it were, “Can you assist? Or we wish to interview you.” It is not just a matter, Chairman, of an hour. At least six weeks out of my life was taken away in

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93 Report of the Consultative Group on the Past, January 2009, p 129

94 Oral Evidence taken before the Committee on 15 July 2009, HC 745-i, Q 16

95 Northern Ireland Human Rights Commission Preliminary Position Paper: Report of the Consultative Group on the Past July 2009, para 68

96 Northern Ireland Human Rights Commission Preliminary Position Paper: Report of the Consultative Group on the Past July 2009, para 76



relation to the Rosemary Nelson inquiry, between attending to make statements and then attending the hearing itself.<sup>97</sup>

113. We believe that the proposed mechanisms for truth recovery and thematic investigation do not represent viable courses of action with which families, victims and paramilitaries will engage. In treading carefully, the Consultative Group appears to attempt to reconcile two mutually inconsistent positions. Despite the Group's intentions, the proposals, if enacted as proposed, might well in effect constitute a de facto "amnesty". Yet, at the same time, they might not provide sufficient assurance to those who might engage in truth recovery.

114. Truth recovery could work effectively only if there were open and honest engagement by those involved in past events. It may be that such engagement would be achieved only if those who participated in such events, from whatever section of the community they may come, were guaranteed some amnesty in return for their openness and honesty. This would be an exceedingly high price to pay, and we are not convinced that either Northern Ireland or the rest of the United Kingdom is ready at present to contemplate such a step. We believe that the Consultative Group's proposals in this respect are likely to prove unworkable. The proposed system also raises complex issues in relation to legal process and human rights. We recommend, therefore, that no additional processes of truth recovery or thematic investigation should be undertaken at present by any newly formed Legacy Commission.

115. We recognise that there may be public demand for an alternative process, outside the traditional court system, that allows information to be disclosed and families to seek a different form of resolution. Public debate will be required to establish what further investigations, if any, should be pursued following completion of the work of the HET. We hope that once all cases that could lead to prosecution have been investigated, a clearer consensus will emerge as to how to approach further investigation in a manner that will benefit society as a whole. Any initiative along these lines, if it is to have any prospect of success, must come from the Northern Ireland Executive and be endorsed by the Assembly.

## 6 Public inquiries

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### The future of public inquiries

116. The issue of public inquiries remains divisive for Northern Ireland society. Various groups continue to put pressure on the Government to undertake further large-scale inquiries into events such as the Omagh bombing. However, as we have noted in previous reports, those that have been undertaken have been long, drawn out, and expensive. An oral question to the Secretary of State in March revealed that the Saville inquiry and the current public inquiries into the deaths of Rosemary Nelson, Billy Wright and Robert Hamill are expected to cost over a quarter of a billion pounds:

The Bloody Sunday inquiry is expected to cost a total of £190 million, including costs incurred by the ministry of Defence. The Hamill, Wright and Nelson inquiries are expected to cost a combined total of £117 million. The total cost, to the end of January 2009, of all public inquiries is £267 million, and 70 per cent. of these costs relate to the Bloody Sunday Inquiry.<sup>98</sup>

117. The Consultative Group recommended that no further public inquiries should be held and that all future investigations be brought under the auspices of the Legacy Commission. Public inquiries, it claimed, are “no longer the most appropriate way to deal with the legacy of the past and bring no resolution to families in historical cases”.<sup>99</sup> The Group would have liked to bring existing public inquiries into the new process, but suggested that by the time the Commission has been established it would be easier for this work to be completed independently.

118. In our 2008 Report into the *Cost of Policing the Past in Northern Ireland*, we recommended that no further public inquiries be undertaken without cross-community agreement, citing the unsustainable financial cost and pressure placed on the PSNI.<sup>100</sup> While we stand by this recommendation, we acknowledge the public demand that still exists in relation to such inquiries. The Northern Ireland Community Relations Council commented:

Council is concerned at the proposal that there should be no more public inquiries. This proposal is absolute and to close this avenue of addressing the past will create many dilemmas. It is important this option is still available to those who wish to pursue it.<sup>101</sup>

**119. We recognise the role that public inquiries play in terms of holding the Government and other public bodies to account for their actions in relation to the events of the past. We also acknowledge that such inquiries promise some degree of resolution to families who feel that their cases have not been effectively dealt with**

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<sup>98</sup> HC Deb, 4 March 2009, col 259271

<sup>99</sup> Report of the Consultative Group on the Past, January 2009, p 154

<sup>100</sup> Third Report of the Northern Ireland Affairs Committee, Session 2007-08, Policing and Criminal Justice in Northern Ireland: the Cost of Policing the Past” HC 333, pp 35 - 36

<sup>101</sup> Ev 48



through the normal court system. However, there remains a risk that such lengthy investigations are not necessarily conducive to promoting reconciliation and may not come to any new or satisfactory conclusions.

120. In our 2008 Report on *Policing and Criminal Justice in Northern Ireland*, the Committee expressed a view that any public inquiry beyond those currently under way should depend on cross-community support from within the Northern Ireland Assembly. However, the continuing demand for a mechanism to pursue investigation cannot be ignored. If demand still exists once the existing public inquiries and reviews of historical cases have been completed, there may be a role for a body such as the proposed Legacy Commission to undertake some form of thematic investigation as an alternative. We would expect the full devolution of policing and justice to have been achieved by the time that any such decisions are taken. We recommend that necessary funding should then come from the Northern Ireland Executive, rather than the UK Government.

## 7 Conclusion

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121. The Government has concluded its own consultation on the report of the Consultative Group and is considering the responses. It is almost a year since the Consultative Group reached its conclusions, after its 18 months of consultation and reflection.

122. We have concluded broadly that the time is not yet right for the other recommendations made by the CGP to be implemented in full and as proposed. We do not mean by this to suggest that those recommendations do not provide helpful indicators by which the community of Northern Ireland can continue on its path towards a united future, built on a broad consensus about how the events of the past must be dealt with in a manner that heals rather than re-opening old wounds. The Secretary of State for Northern Ireland has repeatedly said that time is our friend in achieving the distance that will allow those wounds to heal, and we concur with him in that.

123. **Whatever the outcome of the Government's consultation, and whatever emerges from the Consultative Group's report, that report should be seen as a further step in seeking to build a broader and stronger consensus.** However, the controversy that inevitably surrounds any such report is a potent reminder of the depth and extent of the hurt that still disfigures the lives of many in Northern Ireland. It must be the aim of all in positions of influence in Northern Ireland to strive to ease that hurt. **We believe that reflection on and constructive criticism of the Consultative Group's report should help towards a joint acceptance which can, in time, enable Northern Ireland to put its past behind it.**

## Conclusions and recommendations

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1. We welcome the work of the Consultative Group on the Past and recognise the significant time, energy and careful thought that all members of the Group put into compiling their report. The Group consulted widely among communities in Northern Ireland and produced a report which attempted to outline a way forward for everyone. This enormously difficult task was bound to provoke an emotional reaction from all areas of society affected by the Troubles. The final report was the product of a broad consultative exercise, conducted in good faith by the members of the Group. (Paragraph 16)
2. We endorse the Secretary of State's decision to set aside the recognition payment proposed by the Consultative Group in order to facilitate discussion of its wider recommendations. (Paragraph 22)
3. Whether or not any or all of the 31 recommendations are implemented, the report provides an opportunity for reflection on the extent to which society as a whole in Northern Ireland has progressed towards reconciliation, the degree and nature of remaining tensions in Northern Ireland, and the work that remains to be done. While we believe that the five-month gap between publication of the Consultative Group's report and the Government's launch of public consultation upon it was unnecessarily long, we hope that the public will have put emotional responses to one aspect of the Group's report to one side and engaged fully with the consultation to establish where consensus lies in relation to the remaining 30 recommendations. (Paragraph 23)
4. A Legacy Commission would add real value only if it were qualified fully to take over the functions of bodies such as the Historical Enquiries Team and Police Ombudsman. It is not clear to us that it would greatly enhance the activities of bodies such as the Commission for Victims and Survivors in Northern Ireland, the Northern Ireland Community Relations Council or Healing Through Remembering, unless it were a replacement for, rather than a complement to, them. There is a danger that Northern Ireland could become overburdened with bodies addressing the Troubles. This would be unhelpful and likely to lead to confusion for the public, with work being replicated unnecessarily, representing an inefficient use of limited resources. We believe that it would be more helpful to give greater support to existing bodies to enable them to fulfil their roles as effectively as possible. (Paragraph 30)
5. Given the absence of cross-community consensus regarding the nature, aims or work of such a body, we believe that the conditions of cross-community consensus required for the creation of the type of Legacy Commission proposed by the Consultative Group have not yet been achieved. (Paragraph 37)
6. We note that the Government completed its consultation on the Consultative Group's report in October 2009 and that the Commission for Victims and Survivors intends to undertake similar activities. These periods of consultation and discussion are necessary. Decisions must be taken, however, on the best way to

address the past in Northern Ireland, and these decisions cannot be put off indefinitely. We recommend that the Government announces a time frame for any recommendations that it hopes to implement, following this period of consultation, and following detailed discussion with the parties represented in the Northern Ireland Assembly and, bearing in mind the imminent general election, with the Opposition at Westminster. (Paragraph 39)

7. The precise time frame required by a Legacy Commission could be determined within the context of the needs of Northern Ireland, only if and when cross-community consensus was found on its role and mandate. We believe it likely that any Commission would require a five-year mandate at the very least but support the idea of a time-limited mandate in order to prevent such a body from running indefinitely and prolonging the effects of the past by so doing. (Paragraph 45)
8. We suggest that the Commission might be more helpfully chaired by a local figure, as an active chief executive, rather than by a foreign figurehead. Northern Ireland is in a position where it is able to run its own institutions, such as the Assembly, on a cross-party basis, and that position is vital in the rebuilding of a sense of normality. While there may be political advantages in bringing an international figure to such a role, it would, at this point in Northern Ireland's progress towards lasting peace, be a much more positive move if any future Legacy Commission were chaired, or jointly chaired, by appointees from within Northern Ireland who could unite communities, with cross-community agreement and support. (Paragraph 48)
9. The reality of devolution must be acknowledged: much of the money required for a Legacy Commission would fund activities in the already devolved areas of health and social care, and in the field of policing and justice, which we hope will be fully devolved in the very near future. Devolution should be seen to be progressing, and, therefore, seeking such additional funding from the UK Government looks like a step in the wrong direction. We believe that any significant additional funding should be voted by the Northern Ireland Assembly, rather than the UK Government. Decisions over funding levels and, by extension, the exact nature of any Legacy Commission would, therefore, be a matter of policy choice for the Northern Ireland Executive, rather than the UK Government. It is in the long-term interest of everyone involved that such decisions be taken by those who represent the people of Northern Ireland, and that the Executive be accountable for the financial consequences of such decisions. (Paragraph 51)
10. We reiterate our previous sentiments regarding cross-border co-operation and note that, while we do not recommend that the Legacy Commission go ahead as proposed, there is scope for collaboration between the United Kingdom and the Republic of Ireland, both in terms of providing support for those affected by the Troubles on both sides of the border and the ongoing work of the Historical Enquiries Team. However, the exact role to be played by the Irish Government, and the legislative framework for such involvement, remain unclear in the report of the Consultative Group. Greater clarification is required as to the exact role of the Irish Government and any financial contribution it would make if any such Legacy Commission were to be pursued in the future. (Paragraph 54)

11. We note that in August 2009 the Office of the First Minister and Deputy First Minister published proposals for consultation on the establishment of the Victims and Survivors Service. This is to be welcomed and will improve support to both Victims Groups and individuals affected by the Troubles. We hope that the Northern Ireland Executive will implement this service as soon as is practicable. (Paragraph 63)
12. We believe that there is a need for greater financial support and services to be made available for those affected by the Troubles in Northern Ireland and share the view that this should include those physically and psychologically injured by these events. (Paragraph 64)
13. We commend for consideration by the First Minister and Deputy First Minister the establishment of a fund to be operated on the basis of criteria which command cross-community support. (Paragraph 65)
14. The definition of a “victim” provided by the Victims and Survivors (Northern Ireland) Order 2006 is currently the accepted legal definition of “victim”, and should remain so until such time as an alternative gains cross-party support within the Assembly. However, it is clear that further public debate is needed in order to build a clear consensus on this issue. It will ultimately be for the Northern Ireland Assembly to establish an accepted understanding of who constitutes a “victim”. (Paragraph 72)
15. There is a need to ensure that physical and psychological services and support are available to all who need them. The need for adequate healthcare services is of particular concern. However, we are not persuaded that the Reconciliation Forum as proposed will necessarily add value to existing bodies such as the Commission for Victims and Survivors. The aims of the Consultative Group might be more effectively and efficiently delivered if such bodies empowered to take on a wider strategic role in coordinating and developing existing services for victims and survivors. (Paragraph 81)
16. Existing healthcare services for those bereaved and injured during the Troubles are under pressure, particularly mental health services. We encourage the Northern Ireland Executive to give these matters serious consideration. We recognise that £100 million is a very large sum, and it might be put to more productive use in finding a scheme to help those injured or bereaved, as proposed in paragraph 65 of this Report. (Paragraph 85)
17. Storytelling activities and events, which encourage both private and collective remembrance and reflection, have already assisted in promoting reconciliation in Northern Ireland. Any Legacy Commission established in the future may have a role to play in terms of encouraging the development of such initiatives, in liaison with other public bodies engaged in this field. In the meantime, there should be continued support for organisations such as Healing Through Remembering presently undertaking such projects. We emphasise that consensus must be the basis for taking forward initiatives such as the Day of Reflection. Not everyone will feel able to participate in collective remembrance and this should be understood. It

is important that leading political, church and other community representatives should be seen to show the way towards reconciliation. (Paragraph 93)

18. If and when a Legacy Commission were established, serious debate would be required on its taking over the task of reviewing historical cases from the Historical Enquiries Team and the Office of the Police Ombudsman for Northern Ireland. The logistics involved in transferring these activities would be complex and costly, and questions arise over the real benefits to be gained from doing so. Unless it can be shown beyond reasonable doubt that a new situation would be significantly more efficient, effective and economical than is the case under the present arrangements, we recommend that historical investigations continue to be carried out by the Police Ombudsman and the Historical Enquiries Team. (Paragraph 105)
19. We believe that the proposed mechanisms for truth recovery and thematic investigation do not represent viable courses of action with which families, victims and paramilitaries will engage. In treading carefully, the Consultative Group appears to attempt to reconcile two mutually inconsistent positions. Despite the Group's intentions, the proposals, if enacted as proposed, might well in effect constitute a de facto "amnesty". Yet, at the same time, they might not provide sufficient assurance to those who might engage in truth recovery. (Paragraph 113)
20. Truth recovery could work effectively only if there were open and honest engagement by those involved in past events. It may be that such engagement would be achieved only if those who participated in such events, from whatever section of the community they may come, were guaranteed some amnesty in return for their openness and honesty. This would be an exceedingly high price to pay, and we are not convinced that either Northern Ireland or the rest of the United Kingdom is ready at present to contemplate such a step. We believe that the Consultative Group's proposals in this respect are likely to prove unworkable. The proposed system also raises complex issues in relation to legal process and human rights. We recommend, therefore, that no additional processes of truth recovery or thematic investigation should be undertaken at present by any newly formed Legacy Commission. (Paragraph 114)
21. We recognise that there may be public demand for an alternative process, outside the traditional court system, that allows information to be disclosed and families to seek a different form of resolution. Public debate will be required to establish what further investigations, if any, should be pursued following completion of the work of the HET. We hope that once all cases that could lead to prosecution have been investigated, a clearer consensus will emerge as to how to approach further investigation in a manner that will benefit society as a whole. Any initiative along these lines, if it is to have any prospect of success, must come from the Northern Ireland Executive and be endorsed by the Assembly. (Paragraph 115)
22. We recognise the role that public inquiries play in terms of holding the Government and other public bodies to account for their actions in relation to the events of the past. We also acknowledge that such inquiries promise some degree of resolution to families who feel that their cases have not been effectively dealt with through the normal court system. However, there remains a risk that such lengthy

investigations are not necessarily conducive to promoting reconciliation and may not come to any new or satisfactory conclusions. (Paragraph 119)

23. In our 2008 Report on Policing and Criminal Justice in Northern Ireland, the Committee expressed a view that any public inquiry beyond those currently under way should depend on cross-community support from within the Northern Ireland Assembly. However, the continuing demand for a mechanism to pursue investigation cannot be ignored. If demand still exists once the existing public inquiries and reviews of historical cases have been completed, there may be a role for a body such as the proposed Legacy Commission to undertake some form of thematic investigation as an alternative. We would expect the full devolution of policing and justice to have been achieved by the time that any such decisions are taken. We recommend that necessary funding should then come from the Northern Ireland Executive, rather than the UK Government. (Paragraph 120)
24. Whatever the outcome of the Government's consultation, and whatever emerges from the Consultative Group's report, that report should be seen as a further step in seeking to build a broader and stronger consensus. We believe that reflection on and constructive criticism of the Consultative Group's report should help towards a joint acceptance which can, in time, enable Northern Ireland to put its past behind it. (Paragraph 123)

# Formal Minutes

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**Wednesday 9 December 2009**

Members present:

Sir Patrick Cormack, in the Chair

Christopher Fraser  
Lady Hermon  
Kate Hoey  
Dr Alasdair McDonnell

Mr Denis Murphy  
Stephen Pound  
Mrs Iris Robinson

Draft Report (*The Report of the Consultative Group on the Past in Northern Ireland*), proposed by the Chairman, brought up and read.

*Ordered*, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 123 agreed to.

*Resolved*, That the Report be the Second Report of the Committee to the House.

*Ordered*, That the Chairman make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence reported to the House and ordered to be published on 22 April, 29 April, 1 July and 21 October was ordered to be reported to the House for printing with the Report.

[Adjourned till Wednesday 6 January 2010 at 2.30 p.m.]



## Witnesses

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### Wednesday 25 February 2009

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Consultative Group on the Past Ev 1

### Wednesday 29 April 2009

**Mr Brendan McAllister** and **Ms Patricia MacBride**, Commission for  
Victims and Survivors Ev 16

### Wednesday 24 June 2009

**Rt Hon Shaun Woodward MP**, Secretary of State for Northern Ireland,  
**Ms Katie Pettifer**, Deputy Director, Rights, Election and Legacy Division,  
and **Mr Nick Perry**, Director General, Criminal Justice and Policing Ev 62

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17	Rt Hon Shaun Woodward MP, Secretary of State for Northern Ireland	Ev 81



## List of unprinted evidence

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The following memoranda have been reported to the House, but to save printing costs they have not been printed and copies have been placed in the House of Commons Library, where they may be inspected by Members. Other copies are in the Parliamentary Archives, and are available to the public for inspection. Requests for inspection should be addressed to The Parliamentary Archives, Houses of Parliament, London SW1A 0PW (tel. 020 7219 3074). Opening hours are from 9.30 am to 5.00 pm on Mondays to Fridays.

## List of Reports from the Committee during the current Parliament

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### Session 2009-10

First Report	Work of the Committee in 2008-09	HC 90
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### Session 2008-09

First Report	Work of the Committee in 2007-08	HC 74
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Second Report	Cross-border co-operation between the Governments of the United Kingdom and the Republic of Ireland	HC 78
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First Special Report	The Omagh Bombing: Access to Intelligence	HC 873
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Second Special Report	Cross-border co-operation between the Governments of the United Kingdom and the Republic of Ireland: Government Response to the Committee's First Report of Session 2008-09	HC 1031
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### Session 2007-08

First Report	The Northern Ireland Prison Service	HC 118
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Second Report	The Work of the Committee in 2007	HC 286
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Third Report	Policing and Criminal Justice in Northern Ireland: the Cost of Policing the Past	HC 333
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First Special Report	The Northern Ireland Prison Service: Government Response to the Committee's First Report of Session 2007-08	HC 386
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Second Special Report	Policing and Criminal Justice in Northern Ireland: the Cost of Policing the Past: Government Response to the Committee's Third Report of Session 2007-08	HC 1084
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### Session 2006-07

First Report	Draft Protocol for Community-based Restorative Justice Schemes	HC 87
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Second Report	The Work of the Committee in 2006	HC 294
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Third Report	Tourism in Northern Ireland and its Economic Impact and Benefits	HC 119
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First Special Report	Draft Protocol for Community-based Restorative Justice Schemes: Government Response to the Committee's First Report of Session 2006-07	HC 475
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Second Special Report	Tourism in Northern Ireland and its Economic Impact and Benefits: Government Response to the Committee's Third Report of Session 2006-07	HC 545
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# Oral evidence

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## Taken before the Northern Ireland Affairs Committee on Wednesday 25 February 2009

Members present

Sir Patrick Cormack, in the Chair

Christopher Fraser  
Mr Stephen Hepburn  
Lady Hermon  
Kate Hoey  
Dr Alasdair McDonnell

Mr Denis Murphy  
Stephen Pound  
Mrs Iris Robinson  
David Simpson

*Witnesses:* **Rt Rev Lord Eames OM**, Co-Chair, and **Mr Denis Bradley**, Co-Chair, Consultative Group on the Past, gave evidence.

**Q1 Chairman:** Could I now formally welcome you, Lord Eames, and Mr Bradley, as the Co-Chairmen of the Consultative Group on the Past. We have followed your work with considerable interest. The Committee reported on the cost of policing the past, some months ago, as you know, and we were grateful for the meetings we had with you and your colleagues in the preparation of that report. We deliberately refrained from making a number of recommendations in areas where you were also operating because we did not wish to pre-empt your report or to create any problems for your important work, but now we wish to examine you on your report and the Committee may, as a result of that examination and our deliberations, decide to make a further report itself, but you are, as I say, both of you most welcome. All of this questioning is on the record and I think it would then be fair, especially in view of the announcement on the Nolan Show, a strange show on which to do it but nevertheless much listened to in Northern Ireland, to mention that the Secretary of State made a very important statement this morning about the so-called recognition payments and about the Government's decision not to proceed on that front. Is there anything by way of opening submissions which either you, Lord Eames, or Mr Bradley would wish to say to the Committee before we begin the questioning?

**Lord Eames:** Chairman, if I may, I would like to make a statement on behalf of both myself and Mr Bradley. As Co-Chairs of the Consultative Group on the Past in Northern Ireland, we want to express our appreciation for this opportunity to discuss the report which we issued on 23 January. The Group has met, as you have said, with this Committee on several occasions during our consultation period and we greatly appreciated the opportunity to update you on our work. Ladies and gentlemen, as you know, we were appointed by the Secretary of State for Northern Ireland on 22 June 2007 and we were given two main tasks: one, to consult across the community on how Northern Ireland society could best approach the legacy of the events of the past 40 years; two, to make recommendations as

appropriate on any steps which might be taken to support Northern Ireland society in building a shared future which is not overshadowed by the events of the past. After 18 months of extensive consultation we presented the report. The recommendations came from an extensive period of listening, questioning and debating with Northern Ireland society. We want to have it on the record that we want to pay tribute to the members of the Group, our international advisers, legal advisers and staff for their work, which was both demanding and emotionally draining. Many told us, as we began the work, that we faced an impossible task, such were the divisions and raw feelings throughout our society because of the legacy of the past. There were those who believed that it was too soon to attempt such a task. Some felt the past should take care of itself. "Leave well alone", they said. Some had high hopes that we would find ways of dealing with the past which would produce the proverbial line in the sand. There were also those who questioned whether a group set up by a British Secretary of State had the necessary credibility to produce recommendations which had integrity for a divided society. When we began our work we were overwhelmed by the numbers of those groups, individuals and representatives who wished to make contact with us. They ranged from victims and victims groups, from political parties, churches and groups already achieving much in our society with their approach to remembrance and victims' needs. They ranged from paramilitaries to security services, government agencies, retired security forces personnel, academics and private individuals. We think it is fair to say that we engaged on one of the most extensive consultation periods imaginable. We held public meetings, received written submissions and travelled throughout Northern Ireland, the Republic of Ireland and Great Britain. Our report is consultation-based. We have endeavoured to reflect the main points people put to us. Those views were varied, at times contradictory, but always passionate. We listened to the agonies of human tragedy. We were moved by the stories of individual victims and the heartache of those who continue to

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25 February 2009 Rt Rev Lord Eames OM and Mr Denis Bradley

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carry on their minds and bodies the results of Northern Ireland's conflict. We heard calls for justice which typified the community today when we analysed what people meant by "justice". Some wanted retribution for the loss of a loved one. They wanted a successful prosecution. Some wanted to know more about what had happened to a loved one. Some interpreted "justice" in terms which they themselves recognised had no answer. We met with the entire ambit of human feelings and we felt emotionally drained by the experience. We also studied how other nations have dealt with post-conflict situations. Chairman, what we have in this report is the consequence of all that experience. What you have is by no means the most perfect report ever written in a post-conflict situation but what you have is, I submit, an honest attempt to ask the questions we believe Northern Ireland needs to be asked at this time, to produce a blueprint by which society could respond to those questions, and above all to challenge politicians, the victims' groups, the churches, education, the media and the ordinary people of Northern Ireland. The past is never going to go away. The ghosts of the past will continue to haunt this generation and the next, feeding on sectarian attitudes, unless some way is found to move forward but to move forward with real respect for the sacrifice and trauma of the past. If there is one consensus the Group found it was simply this: it must never happen again. In concluding this brief introduction I want to face up to that recommendation which has so dominated the public perception of our report. I refer, of course, to the recommendation of a recognition grant to the families of those killed during the Troubles. The Secretary of State has stated this morning that this recommendation is not to be furthered at present by the Government. None of our recommendations caused greater heart-searching within the Group, and indeed divisions within our Group, than this one. Let me say quite clearly, time and again during the consultation period we were urged to produce something which would give recognition to the trauma and suffering of those left behind. They range from the families of security forces, including families of British soldiers who served in Northern Ireland but then still lived on the mainland, from families of the UDR and the RUC victims of the Troubles to civilians caught up in the tragedy. There was a widespread feeling that once the media spotlight and sympathy from their local community passed away from a family after a funeral, society forgot about them. Politicians, social workers and victims' groups were among those who urged that some recognition of this human reaction must be found in our report. There were words like, "There is no difference between a mother's tears". This report is victim-sensitive and we listened to many such pleas which in a purely human service came from the heart. It was inevitable that any such recommendation would call forth a knee-jerk reaction and cause more pain to those already feeling the depths of mental and physical trauma. Chairman, perhaps I can emphasise what I am saying by the fact that I suggest that of all the people in this

room I have stood beside more graves than any of you of those who were victims of the Troubles and I therefore speak with some feeling at this point. This was not about compensation. None of us have the moral right to put a figure on any human life. It is about humans and human suffering. At the root of this question is simply this: who is a victim? Irrespective of the Secretary of State's statement this morning, this will remain a highly contentious issue, but may I remind the Committee of the current legal situation in Northern Ireland regarding who can be classified as a victim? On the statute book the Victims and Survivors (Northern Ireland) Order 2006 states that a victim is someone who has been physically and psychologically injured as a result of or in consequence of a conflict-related incident. That word "someone", Chairman, is repeated throughout the Order and there is no reference to any hierarchy of victims. That is the law as it stands and sometimes I have to say that there are those who conveniently or otherwise forget the generality of the term and the law. The 2006 Order is on the statute book and any change to the definition of "victim" is a matter for the legislator. The Commission for Victims and Survivors was entirely involved in our discussions and in a statement prior to the publication of our report it said this: "The Commission for Victims and Survivors has a duty to address the needs of all who have suffered regardless of their background or circumstances", and later, "We believe that compassion for the bereaved, regardless of how we might view those for whom they grieve, should be an important feature which helps our society in its struggle to deal with the past and build a better future". Chairman, it must also be remembered, and I say this in conclusion, that the Government of the Republic of Ireland had previously addressed this issue in its jurisdiction through an acknowledgement payment some years ago. This action passed largely unnoticed in Northern Ireland, but we were told that there were those families in Northern Ireland and in the rest of the United Kingdom who felt disadvantaged because they lived in another jurisdiction and had not been accorded such recognition. Chairman, we are encouraged by the Secretary of State's assurance this morning that he is taking serious note of the other recommendations in our report, and to quote the Chairman of the Police Federation, Mr Terry Spence: "Let us not throw out the baby with the bath water". We therefore submit that this report should not stand or fall on any one recommendation. I thank you, sir, for your patience.

**Q2 Chairman:** Thank you very much indeed, Lord Eames, for that. That is a helpful beginning and we note carefully all that you say. Could I just say at the beginning that the questions we ask you—which I hope will be searching and some may be robust—all come from Members who recognise and do not in any way impugn your integrity, your good intentions, your attempt to come up with a report which would truly help. The question is, is your judgment right and do we believe that your report is going to further the cause? So I want to begin with the most contentious aspect of it, as you will not be

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surprised, and I would have done so whether or not the Secretary of State had made his comments this morning, but in the light of those comments and in the light of what you have just said, quoting Mr Spence (who is familiar to this Committee and who has been before us on a number of occasions), would it not be wiser now to put that recommendation on one side, to accept the Secretary of State's verdict on it and to argue persuasively for the other aspects of your report, or do you intend to continue to press the recognition payment point?

**Mr Bradley:** Firstly, we will press nothing from here on in. Legally we are no longer in existence as a consultative group. That finished on the day of the launch of our report, so we will be pressing no one and we will not be lobbying any politician about anything. I think that is proper and correct that in some ways this consultation has now been done, been given to the Secretary of State and it is up for analysis and it is proper that the debate begins and continues. It is a very complex report, it is a very detailed report, and I think there is no aspect of post-conflict that it does not deal with and try to come to terms with and takes very strong views on it. The reason we took very strong views is because the past in some ways, in Northern Ireland terms, is the toxicity of Northern Ireland. It is the most difficult area, particularly for politicians, to deal with. It is also very difficult for victims to deal with the past because there is a very, very strong danger that for the next 20 to 30 years we will continue fighting the Troubles, whatever word one decides to put upon that period of time, and even within that there are difficulties because many people who came to us and said to us, "Forty years is not long enough, you should be looking at 400 years". So even the context in which that is laid out does not achieve consensus. But having said that, coming to the actual recommendations to which you referred and were requiring an answer, it was also part of our brief to look at the landscape of that which was already in statute or that which was already happening on the ground, whatever actions were being carried out, to actually deal with, to grasp the past, to help us all through the past. There were many excellent things happening, from storytelling through proper remembering, through research, through academic studies, and so forth, but it actually struck us as particularly peculiar that this House in 2006 not only gave the definition which Robin has already referred to but in paragraph C it actually defines that a victim is "someone who has been bereaved as a result of or in consequence of a conflict-related incident". That is the definition of this House. We were not in a position, nor did we desire to go and seek the changing of that definition. That definition came about not out of the blue, it came as a result of a number of reports. Sir Kenneth Bloomfield had already done two reports, Bertha McDougall, who was the Interim Victims' Commissioner, had also done a report, and it was quite clear that within those reports this issue about who a victim was could not be grasped.

**Q3 Chairman:** No, Mr Bradley, but we have seen both of those people as witnesses and even though Sir Kenneth argued before this Committee, and we

listened most sympathetically to the argument, that there should be more money available to compensate people—he used the word "compensation"—neither of them argued that £12,000 or any other particular sum should be paid to everybody.

**Mr Bradley:** Which brings me on to the second part of what I was trying to develop, which is that we have set up a mechanism in Northern Ireland with the appointment of four Victims' Commissioners to deal with the injured and the traumatised and those Victims' Commissioners have informed us that it is almost going to be impossible to do their work unless we grasp the nettle of the dead of the conflict because part of their remit is to set up a forum of victims who will be their oversight or their helpers within the work they do. The truth of the matter is that in Northern Ireland we are still fighting about who a victim is or who a victim is not and they made the plea to us, on top of the number of people who came to us privately and said to us, "There has been no acknowledgement made to us about the death of my beloved person", and they came, as Robin has already pointed out, from all sections of our society. It is very clear that within the debate in the last period of time people have forgotten what the definition of a victim is. No one in making an acknowledgement payment is saying that the actions of a particular person who was killed were either right or wrong. That is not the issue that victims live and breathe and have their being within. It is the fact that their loved one, son, father, mother, daughter, has been killed and the only way to take that off the table to allow the rest of the work to go forward is actually to make an acknowledgement payment. The Secretary of State has said this morning that he wants to leave that aside because there is no consensus. We recognise that and we acknowledge that. What we will say to that is that when this issue resurfaces, either within the Victims' Commissioners or within your group, you will find the exact same problem. If you go and meet victims' groups from divided communities, if you meet a group of people whose sons were in the IRA or the UDF who were killed either by the British Army or the UDR, or the RUC, and you say that you are not a victim, then they will argue very intensely with you and you will not come to the resolution that you believe you may do.

**Q4 Chairman:** The last question from me for the moment, and then I want to go on to Mrs Robinson and others. Mr Bradley, I have listened to the passion with which you advance your case and I do not for a minute doubt that you feel very strongly on the issue, but something which I personally find difficult to accept and I know many others do as well—and we have met many of these people, too, not as many as you but we have met many of them and some of my colleagues have met far more—is how can one begin to say that you treat equally the widow of a member of the security forces, the husband, daughter or son of an innocent bystander

blown up as a result of a terrorist outrage and a terrorist killed whilst planting a bomb or shooting a policeman? How can you conceivably reconcile that?

**Mr Bradley:** Because you just changed the premise. You mentioned a widow of an RUC man, the widow of a British soldier and then you mentioned a terrorist. There is no recommendation within our report that a terrorist should be treated the same or that a soldier who kills somebody should be treated the same as the widow. We are talking about victims and a victim is someone who has been bereaved. Someone who has been bereaved.

**Chairman:** I appreciate that, Mr Bradley, but the fact is that the consequence is as I actually described, but let me bring in Mrs Robinson first and then other colleagues want to come in.

**Mrs Robinson:** I think what we are hearing is a play on words here and I think the general consensus across Northern Ireland is that there is only one type of victim and that is the innocent victim, not the people who set out to murder or if they are killed in the process of attempting to murder people. I can almost still smell the burning when we went up to the La Mon site where we saw 13 innocent people incinerated after attending an Irish coley dinner and if any of those terrorists who planted the lethal petrol bombs on the grills of that hotel knowing that there were no security forces there—not that I believe they were a legitimate target, of course—had been killed in that action what you are saying is that the families of those who set out to do the murder would be equally treated with this so-called acknowledgement payment. I, for one, could never accept that the parents of those terrorists who set out to maim and kill—and remember these bodies were so intensely burnt that bodies were fused together bone on bone and to date we have never had anyone brought before the court charged with the murder of those people, one of the worst atrocities in my constituency and indeed across Northern Ireland, so I cannot and I do not think any reasonable person in Northern Ireland or across the United Kingdom—and I think you are setting a very dangerous precedent by equating one with the other, and I totally concur with the Chairman that he, like me, cannot equate the victim with the perpetrator. Would you agree that the credibility of your consultative group is now so badly damaged because of this particular issue, and now having it withdrawn at such a very appropriate moment before we meet today, that not only has the credibility of your Group been affected but it also renders all of the other points difficult because the Secretary of State has made it clear that there has to be consensus around all the proposals and at this moment in time I do not see consensus?

**Q5 Chairman:** Could I just make an appeal to everybody, and I include myself as well, we want to ask questions of our two witnesses and we must all try—and I must try as well—not to make too many statements. What Mrs Robinson said was highly relevant and we can build questions upon it, but let

us now have as much interchange as we can because that will be very helpful. Lord Eames, respond to that, please.

**Lord Eames:** Mrs Robinson, thank you for your question. Of course, at one level in my experience there is all the difference in the world between the motivation of the relatives of an RUC man, the UDR man or woman involved in the Troubles and in terms of service to the people of Northern Ireland and the family which knowingly supports someone involved in taking human lives as a paramilitary. Of course I accept this distinction at one level of my experience. I said earlier that I do not need to be taught what that experience is, and I think you might accept that, but when we looked at the entire situation, first of all in other countries which had looked at post-conflict situation, when we looked, as I said in my introduction, at the law which is administered in Northern Ireland through, I accept, direct rule legislation but is now endorsed by the Northern Ireland Assembly as the law of the land, when we looked at the way in which the compensation machinery years ago looked at the question of who might apply for compensation in Northern Ireland we were faced with the brick wall of the definition of who or what is a victim. So it is a question for anyone trying to go down the 18 month journey which we have been on as to where your heart and emotion reacts to a situation and where in fact at a very human level another consideration comes into the picture, and the phrase “a mother’s tears are the same” came on several occasions in our consultations from politicians who asked us to accept that in their constituencies there were those who had relevant experience of that, and we had to take that on board because, as I said at the beginning, we were a consultation-based inquiry. The second and final point I would make is that no one needs to tell me in this room of the service of the RUC, the UDR and the security forces in Northern Ireland, or the sacrifice of their families going home at night into the very area in which they had to operate, but I have to tell you that in terms of this divisive issue—and I say again it was a divisive issue within our work—one has to face the reality that there is truth in the fact that a family which suffers at the level of the suffering we are talking about has no distinction.

**Q6 Chairman:** But the logic of this is that the families of the London bombers should be paid the same amount of money, if payments were being made, as those who perished in the London bombings?

**Lord Eames:** If the basis is on that of human suffering, which is not a political slant, not a political definition. I know it is hard. I have found it very hard to accept that sort of reasoning.

**Q7 Chairman:** Yes, but it is just important to get this on the record, and you are indeed agreeing with what I am saying there, that the logic of the argument advanced—

**Lord Eames:** On one level, Chairman, yes. On one level.

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25 February 2009 Rt Rev Lord Eames OM and Mr Denis Bradley

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**Mr Bradley:** Could I just add to that? It is very important to point out that the Victims' Commissioner for Northern Ireland—actually, to be totally fair, probably three out of four of them—agreed with the recognition payments and that was expressed at twelve o'clock today on Radio Ulster.

**Chairman:** Thank you for that. I have got Mr Simpson, Mr Fraser, Lady Hermon and Kate Hoey. I will get you all in. As briefly as you can, please. Mr Simpson first.

**David Simpson:** I will be as brief as I can, but there is a couple of points I do want to make. In relation to this overall report, this obnoxious report, I have to say, has been contaminated, as my colleague has said, with the £12,000 so-called payments. Lord Eames will know that what I say publicly is what I say privately, and what I say privately is what I say publicly, and I have to say in relation to this report—and I listened to Lord Eames when he said that he attended many funerals. Lord Eames has buried four of my family and I have to say that when I look at this report and the detail of this report I am somewhat disappointed, Lord Eames, that your fingerprints and thumbprints are all over this. I have to say that very honestly and very openly today. I cannot say that I have to say that, Chairman, with Mr Bradley because I believe that Mr Bradley, before going onto this Group and in this Group, had an agenda and I believe that when we read this report he certainly has got an agenda—

**Stephen Pound:** Chairman, we are moving into an area—

**David Simpson:** Yes, we are moving in but, Chairman, I did make the point—

**Dr McDonnell:** Can I just intervene?

**Chairman:** Please sit down. I am chairing this meeting and I am not going to permit, Mr Simpson, any personal attacks. We are here to question these two gentlemen on the report. We are not here to recite history and we are not here to make personal accusations about integrity. We are here to put questions. Now, if you have got questions, please put them.

**David Simpson:** I have questions, Chairman, but what we have listened to thus far, with the greatest respect, is oratory and a spin with words.

**Chairman:** You are pretty good at that yourself!

**David Simpson:** Well, I may be, Chairman, but at the end of the day there are a lot of people in Northern Ireland today who are hurting over this report and the way it was handled.

**Chairman:** Ask your question.

**Q8 David Simpson:** I will come to the point, the questions that I have, but that is something that I had to get off my chest and I have said it. In relation to the report itself, you make the point on p 32 that you are ruling out a general amnesty for the next five year period but in reality that is not the case because on p 157, on the wrongs, it has been suggested that we draw a line after the five year period but in fact it is an amnesty. Also, on p 144, you state that the decision to re-open a case would rest entirely with the Commission. Does this mean that in fact justice is subject entirely to the discretion of the

Commission? One last point: on the £12,000, who was it within the consultative group who suggested £12,000 and was it a unanimous decision?

**Lord Eames:** Chairman, may I deal with the first part of Mr Simpson's question? Obviously, Mr Simpson, I respect you enough to understand that it is true that what you say in private you will also say in public. I have no argument with that because I have known you a long time. I also recall that I have been privileged to perform the burial ceremony for four of your family, therefore I know the weight of emotion which you bring to your remarks. So far as amnesty is concerned, there is absolutely no doubt that there is no wish in Northern Ireland at present for a general amnesty, but in proposing the structure for a Legacy Commission we cannot foresee, if that is implemented by Her Majesty's Government, what way that Legacy Commission will reach its conclusions. What you are referring to on several of the pages you have mentioned in our report is simply and solely the discretion which we feel in law and in practice should be given to this proposed Legacy Commission. They may very well say at the end of five years—and perhaps I could refer to that—“These are certain options that have been disclosed to us during the five year operation and we therefore feel this is what the Northern Ireland people should conclude”, but we are not in a position as a consultative group to make any decisions for that Commission, but we believe we have outlined an important way in which that Commission could play a role. There is no amnesty proposed in this report and certainly an amnesty was quickly dismissed in terms of our discussion. You asked the question who in our group brought up the idea of the £12,000 sterling. I referred in my introduction to the action of the Government of the Republic of Ireland some years ago and when we were discussing this at an initial stage, when they gave their bereavement grant they did so because of their jurisdiction in euros and according to the advice we received at the time we were discussing this the figure of £12,000 sterling was a rough equivalent of the number of euros the Irish Government had given its citizens. You can put a horse and cart through the reasoning for the £12,000 in terms of the figure. I cannot defend that—

**Q9 Chairman:** You would have to recalculate it now, would you not?

**Lord Eames:** I can simply tell you that in fact that is how it arose. I cannot remember who actually produced the suggestion, in all honesty, but I do know that is the way in which it arose as an equivalent because it happened after the family of a British Army officer who had been killed in Northern Ireland—and they lived on the mainland—said, “Look, we feel disadvantaged because look what's happened to the relatives of people involved in death in the Republic because of the Troubles. We feel disadvantaged”, and therefore that took us down that road. There is much more, but I think that is as quickly as I can put it.

**Chairman:** Thank you very much indeed.

**Q10 Christopher Fraser:** First is a point of clarification and second is the question. Can I understand, could you have challenged the classification of who is a victim should you have wished to have done so?

**Lord Eames:** In theory we could comment on that particular legislation. We did not do so because we had to be confronting the fact that that was the law as it was. Therefore, I suppose we could have challenged it, but I am telling you that we had to face the brick wall of this legislation because if we had gone beyond that we would have been accused—not necessarily here but we would have been accused by many people of simply deciding to re-write the law of Northern Ireland.

**Mr Bradley:** Just for clarification on that, we were aware that had we not grasped that nettle—it is difficult, we realised that and we realised that it would create a lot of confusion on some people's behalf, hurt on other people's behalf, but if we did not grasp it then actually there would have been an outcry from those people who had been bereaved that there was no recognition of them in the report, that it was all to do with the injured, that there were four victims' commissioners specifically established to deal with the injured and the traumatised but nobody had grasped the nettle of those who had been killed.

**Q11 Christopher Fraser:** Secondly is the question: in your opinion has the recognition payment made tensions worse between communities in Northern Ireland?

**Mr Bradley:** I do not think so. Northern Ireland is at a very important stage of its development at the moment. This is the toxicity of Northern Ireland. This is probably the most difficult issue ever. This one could not have been dealt with at the Good Friday Agreement and was not dealt with at the Good Friday Agreement and now that I am a free civic human being can I just say I think our politicians have dealt with this one obnoxiously, to use a word which was used earlier on. I think they have led people to bad places. I think they keep fighting this issue. I think they keep using it as a reason for the fight continuing to go on. Thank God the violence has gone, but I think that this one actually faces all of us with the issue of reconciling ourselves to a new place, of moving forward and recognising that a mother's tears is a mother's tears no matter where they exist and that actually the definition which is in the statute is as good as you get and if you try to undo it you run into more difficult and more complex definitions.

**Q12 Christopher Fraser:** You did not think by that recommendation, given what you have just said, you were actually adding flames to an existing problem?

**Mr Bradley:** No, because I think the greatest hurt which can be done to the victims of Northern Ireland is a feeling that they have been forgotten about, and they are feeling that very strongly at the moment and people recognise that this is probably the last report that will ever be done into this issue and that if it does not move forward from this issue nothing else will

happen and they will be left behind. Probably 80% of the community of Northern Ireland wishes to put the past behind them.

**Chairman:** Thank you. I want to move on from this issue myself in a few minutes.

**Q13 Lady Hermon:** Given the enormous controversy which has undoubtedly been caused by this one particular recommendation and which has undoubtedly damaged and harmed the rest of your report, do either of you—and I would like both of you to reply, please—in your quiet moments, in your heart of hearts actually think that this recommendation was a mistake?

**Lord Eames:** I think, Lady Hermon, first of all had it not been in some way expressed we would have been breaking faith with the people who asked us to do it. I have to say to you that they represented in a sense in the present controversy a voiceless community in Northern Ireland. I received a letter from the mother of someone who died in the Omagh bomb and she said that at first she found it repugnant that we should suggest £12,000 sterling. She said, in retrospect and thinking it over and, I have to say, in her prayerful way she now felt it was an important step forward. I know that I cannot quantify what the percentage of people in Northern Ireland who felt that would be, but I have to tell you they exist and they have spoken to us. The second thing about it is obviously with the benefit of hindsight anything we do in public life could be done in a different way. I felt most keenly during the controversy, when it was known that this proposal was in the book, for those I knew, particularly knew, and had been with over those 30, 40 years who had to suffer because of the way in which the debate developed in our community and there were those whom I honestly and sincerely believe politicised what was a human suffering situation.

**Q14 Lady Hermon:** So do you think your recommendation was actually deliberately leaked in order to scupper your report?

**Lord Eames:** No, I do not, Lady Hermon.

**Q15 Chairman:** Do you want to add something, Mr Bradley?

**Mr Bradley:** Well, just because you have asked me to answer it, no, I do not because I think this goes to the heart of something. Because of the controversy, I think we were surprised—not by the controversy, we expected the controversy, but I think that we were surprised by the depth of the controversy. We were surprised by the amount of hurt that still exists. We were surprised by the lack of reconciliation that had actually happened, that the emotions are as raw now as they were when the war or the conflict was on. The emotions are as raw, but they are as raw on all sides and it depends which room you enter. If you enter a room of people who are not from the security forces or who are not innocent victims but who are mothers and fathers of IRA or UDF or UDA you will get a rawness in there which is as equal and which is equivalent to the rawness you will get in the other room. There is not a conflict in the world that has



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resolved itself that has not grasped this nettle and neither will this group nor any other group be able to get this one passed. This will come back. This will come on the table and our politicians have a way out of it. They have a very easy way out of it because the politicians who said that a mother's tears are the same came from the Unionist community and it was said very strongly and it was a strong recognition that you must not punish the victims because the victims' definition is a very clear definition. It is those who were bereaved. It is not those who perpetrated or carried out anything, it is those who were bereaved, and if you do not grasp that nettle then you actually cannot really move forward to a new place.

**Q16 Kate Hoey:** Mr Bradley, on that last point, who actually said the bereaved were the victims? I keep hearing this phrase "a mother's tears". Just how many people actually said that?

**Mr Bradley:** Well, a number, but some very important people said it.

**Q17 Kate Hoey:** So in other words you have equated the importance of people rather than the vast numbers of ordinary people. Can I just first of all thank you for all the work you have done because I know that whatever the strong feelings are about this you have put in a huge amount of work, all of you, and that has not been easy, but it is in a sense terribly sad that we have spent all this money, taxpayers' money, my constituents in Vauxhall are paying for this as well, and ended up with something now that, quite honestly, I do not think any of these recommendations will ever see the light of day for all sorts of reasons, I have to say. However, can I just say on the question of the so-called "payments", just common sense tells anyone that you cannot equate the life of the person who went out and put the bomb in the Shankill fish and chip shop with the lives of the people who were murdered and the word "murder" does not seem to appear in this document at all. Murder seems to be a word that now you do not even want to use and I am genuinely disappointed, I have to say, Lord Eames, in what came out of this report. Can I just ask you, relating to this Parliament, did you actually get a telephone call from the Secretary of State telling you that he was going to go on the Nolan Show and make this statement this morning?

**Lord Eames:** No.

**Q18 Kate Hoey:** Mr Bradley, did you have any idea that this was going to happen today?

**Mr Bradley:** No.

**Q19 Kate Hoey:** Are you pleased that this has been said today, in the sense that it is now in the public domain and that it is not going to go anywhere?

**Lord Eames:** If the suggestion involved in your question is that it was convenient for our presentation of this report for this announcement to have been made—and I have not heard it, I have been in London—if it was to be for the convenience of this, I certainly was not aware of it.

**Q20 Kate Hoey:** No, and I do not think I was suggesting that. I was suggesting that it was more likely to be for the convenience of the Secretary of State than either of you two.

**Lord Eames:** I cannot comment on that.

**Kate Hoey:** Just one final point on the question of, again, the payment and it relates to a question from one of my colleagues earlier. In relation to a murderer in the mainland, the bereaved murderer's family in a conflict, say, between two gangs that has been going on for a very long time and somebody ends up being killed, have they got the same rights as the people who have been killed? I think common sense and ordinary people in the United Kingdom will just not see the logic of this and I am trying to grasp it, and I know Northern Ireland and I know the history and I know the terrible, terrible pain that is on all sides, but you cannot equate murder with the life of an innocent person.

**Q21 Christopher Fraser:** Because one person chooses to kill.

**Mr Bradley:** I cannot get the logic of what you are saying because you keep talking about somebody who is murdered. There is nobody recommending that anybody get a recognition payment who has murdered anyone.

**Q22 Chairman:** Just a minute, Mr Bradley. I do think we have got to get this absolutely clear because if these recommendations are implemented the bereaved of the murderer would receive the same as the bereaved of the murdered?

**Mr Bradley:** Correct. It is the bereaved.

**Q23 Chairman:** Yes, but you have to recognise that there is a great degree of opposition to this and it seems to go right across the community.

**Mr Bradley:** I need to ask the question again, why has this House made that definition?

**Q24 Christopher Fraser:** But you could have challenged it?

**Mr Bradley:** We could have challenged it. Can I tell you that the reason we did not challenge it is because we believed it came out of some kind of wisdom.

**Q25 Christopher Fraser:** But you could have challenged it?

**Mr Bradley:** Yes, we could have challenged it, but we do not desire to challenge it. I have already said that.

**Chairman:** I would like to move it on now, Mr Bradley. Had you, for instance, said that there should be a sum to money for which all bereaved could apply so that their cases could be judged on their merits—and one accepts that some families of murderers are as deeply revolted and distressed by the murder as the victim, one accepts that—if you had said that this was a pool of money for which people could apply, I do not think that this great furore would have erupted. It is the fact that you want to give everybody the same regardless of the circumstances. I must move on then to the Legacy Commission because there is much in your report that we must look at, but I would just ask that when

you go away today, both of you, you do reflect on that point. We all of us in public life from time to time make mistakes and I would put it to you very quietly and I hope with some degree of humility that I have made many mistakes in my political life but this, frankly, was a mistake of judgment and I would just ask you to reflect on that, but could I bring in Alasdair McDonnell.

**Mrs Robinson:** Chairman, could I just ask just one tiny question?

**Chairman:** If it is very, very quick.

**Mrs Robinson:** Mr Bradley talked about a war and that was the first it appeared, so there was a war, but the reality of the decision today by the Secretary of State in terms of equating the victim with the perpetrator is that now the victim gets nothing. So again they are equated in the same light because now the victim is getting nothing as well as the perpetrator.

**Chairman:** The point is well made and I am sure that is worth making. Could we bring in now Dr McDonnell?

**Q26 Dr McDonnell:** I just want to congratulate Lord Eames and Denis Bradley for the very good job they did with an impossible task. There is no answer, there is no simple answer, there is no clear-cut answer and there is no answer that will satisfy everybody in terms of dealing with the victims issue. Yes, we can all pick holes and we can all with hindsight disagree. I think for my money and from where I am sitting the victims' issue is now well at the top of the agenda and you have, for better or for worse, put it up for people like me and others around this table to deal with it. Having said that, I want to just probe a little bit the Legacy Commission. What is the overall aim of that Commission? How do you see that? What do you see as its terms of reference? Maybe my next question is a bit superfluous in the context of our previous discussion, but do you think we are ready yet? I know some people said it will take 40 years and we should wait 40 years. Another one said to forget it. How do we get to grips with the issue? You have suggested the Commission. How do you see that? Can you flesh it out a bit for us and what is your assessment as to whether we are ready for such an organisation, and if we are not ready when might we be ready?

**Mr Bradley:** When this group was established one of the first things it asked itself was the appropriate time, because we were as aware of, I suppose, the impossibility as the next person was. Some countries leave this for 100 years after the conflict has come to a resolution and others grasp it. There was a number of reasons why I think it was important for Northern Ireland to come down on the side of doing it now. This is affecting the soul of our society and it is also affecting the outworking of many of the institutions within our society. It affects the soul in that the type of disagreement that we get here today can take place in any room where you put two sets of victims. You get the exact same argument, except that you will get them stronger because one of the groups will say it was a war, it was a conflict and it has been going on for 400 years, and that does not always get

reflected in a Westminster situation, for its own reasons, but you will get that reflected. The second thing is that it is interfering greatly with policing in Northern Ireland. It is greatly interfering with the Ombudsman's Office in Northern Ireland. In fact there was strong representation to us that it is becoming very difficult to actually carry out the day to day current issues around policing or the oversight of policing because of the past and the amount of money, manpower, womanpower, energy, effort and dispute that is going into those two institutions. If it were to end there, then that is possibly a handle. It is going into the judicial system at an enormous and frequent level and the truth of the matter is that this report is not off the table and will not be off the table, not because of the wisdom and the brilliance of Lord Eames and Denis Bradley, that is nothing to do with it, but it is to do with the hard politics and the hard politics is that we can fight this in the courts for the next 40 years and our community is ready to fight this in the courts for the next 40 years, and it will cost the judicial system and the devolved system an absolute billion pounds in our estimation. £1 billion it will cost to fight it within the judicial process and there are people raring to get into court and if it is not the normal criminal courts it is public inquiries. While we have recommended many things, what we have said is that it is impossible to say simply, "Take away the public inquiries", if you do not put something in its place. The Legacy Commission is an effort to do it better, to do it more cleanly, to do it more appropriately and to do it faster, and to do it without 40 lawyers in the room and to get to situations that are gettable at. An example: we are going to spend £100 million in the next five years on the HET, the Historic Enquiries Team, £100 million, and in our estimation we will have covered about half of the cases they are tasked with examining because with every case they list and every file they open they have to bring proper policing procedures to that particular case. The standards that are appropriate to any investigation have to be brought to that case under the present statute. What we are suggesting is that under the Legacy Commission if it is utterly clear that there is no possibility of a prosecution and the family agrees, having been informed that there is no possibility of a prosecution, they can move into a new system which gets to some truth, some of the facts they want to know but not under police procedures, which means that you can do it within five years. In fact when they moved it in some of the other conflict situations throughout the world they discovered that they did it even quicker than they had realised it was possible to do, as long as you get the lawyers out of the room. Now, that is two things. If we have devolution of policing and justice going into Northern Ireland in the next period of time one of the questions which I think this Committee will have to grapple with is, is it the British Government in conjunction with the Irish Government who should take ownership of this issue, because our politicians may not be capable of dealing with it, or in fact do you hand it to our politicians in a devolved situation

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and say, “Go and try and work this out because in working out this you will come to perhaps a more reconciled position on a very, very difficult issue”.

**Q27 Chairman:** Who do you think should run it?

**Mr Bradley:** I do not know if I have the wisdom, I do not know if I have the knowledge or the parliamentary or legislative experience. I think that is an issue outside of my—I think he would be much more experienced than I would be.

**Q28 Chairman:** With great respect to you both—and I truly meant that, I do have great respect for you both—if this Commission is going to be set up, what is its governance going to be, to whom is it going to be responsible and what sort of person is going to be able to chair it? I think we have already demonstrated this afternoon that this is not going to be the easiest job in the world.

**Lord Eames:** First of all, Chairman, so far as, may we say, the office bearers are concerned in our proposal we recommend that there be an international figure appointed as the senior person in this Commission.

**Q29 Chairman:** I cannot have cross-party discussions while our witness is answering questions. It is incredibly rude to him. I want to hear what he has got to say and then you can come in with your questions. Lord Eames.

**Lord Eames:** We recommend that there be an international person appointed as the chief of this triangular system of the Legacy Commission, to be assisted by two others, and that the four strands of the Legacy Commission that we recommend—thematic cases, historical cases, reconciliation issues, and so on—should all in a sense be of a triangle to the appointment of those three figures. The question of who is actually in legislative terms or in parliamentary terms responsible for this, quite frankly, is something that we are not here to answer as a consultative group. We were appointed by a Secretary of State and the report was to a Secretary of State. A devolved government, which at this moment has not got police and justice powers devolved to it, is one issue but a devolved government which has police and justice issues devolved to it is a totally different situation and it could very well be that in fact what is recommended in this part of our report would fall neatly into that devolved situation. But with respect, we are being asked purely theoretical questions on this issue and I personally would not wish to comment further.

**Q30 Dr McDonnell:** Another point I want to make is how much of our victim backlog, our victim closure, would you estimate we would be able to effect in the five year term? Would we get 50, 60, 70% sorted out, leaving only a residue for historic inquiries, or whatever?

**Mr Bradley:** The HET are making quite an amount of progress but they are slowed down by the fact that they have to bring policing standards to every case. Even though the family is not asking for that, they still have to do it. That slows them down. Freed up

from that, it is their estimation that it can be done within the five year period, freed up from the present procedures under which they work, because it actually comes down to what a lot of families do not want, the whole regalia. They just want to know a few things. Robin tells a very good story of one mother who just wanted to know if her daughter had got fed before she went out that morning. It is just as simple as that. Other people want to know other things. Some people, of course, want to use the process to make the British Government as responsible for the conflict as the IRA or the UDF were. So you have that whole spectrum and that whole spectrum exists. What we are recommending we think is the most dignified and the most achievable methodology of getting to a place where after five years you can begin to bring down the shutters and say, “We have done our best”, because you cannot undo the past. It is not undoable.

**Chairman:** Thank you.

**Christopher Fraser:** You passed a comment earlier, Mr Bradley, something to the effect that a politician is not capable of dealing with this issue. That has been recorded. Just a straight question, a straight answer: do you not have faith in the politicians in Northern Ireland to deal with this?

**Dr McDonnell:** I do not.

**Q31 Christopher Fraser:** I was asking Mr Bradley. Mr Bradley, what is your opinion, sir?

**Mr Bradley:** My feeling is that the past is the “third rail”, as I think they describe it in American politics. If you touch it, you get burnt!

**Chairman:** Thank you very much indeed.

**Q32 Mr Murphy:** Just following on, gentlemen, from the discussion with my colleague, the bringing together, as you suggest, of the historical inquiries team, the Police Ombudsman’s team and part of the PSNI, compared with its current size what number of personnel would you see being required to set up this new unit?

**Mr Bradley:** We think it is roughly the same as what is presently in existence, it would not be any more. In other words, there are, we think, about 20 people working within the Ombudsman’s office and we think there is about 100, so you are talking about those types of numbers. We do not think it will cost any more money. It is a matter of changing—and this is where the legislation is vitally important—you have to change the legislation to allow them to do things that are not doable at this moment in time. That would not be the only thing because there would be a lot of powers put into the Commission which would need primary legislation.

**Q33 Mr Murphy:** You also suggest in your report that every single case should be reviewed again. How can you reconcile that with managing to do everything which currently is expected to take seven to 10 years and with the review of every case that is already being examined within the five year period?

**Mr Bradley:** Because, again, you are not bringing the same standards. You are not bringing policing standards to that. It will only be reviewed if there is

some desire for it to be reviewed, otherwise it will be reviewed very, very quickly. But say there is a family—there is an example that the HET would, I think, concur with so I will give you the example. When the HET was set up they did the Ballymurphy 11 (as they are described). There were 11 people killed over a period of three days in Ballymurphy. They were shot dead by paratroops, including the Catholic priest. When they did it, they did it as single individuals. Each individual case was done because that is the legislation which the HET had to initially work on. They discovered that it was not worth doing under that because actually people saw this and felt this to be a single incident, even though it happened over three days and there were 11 people involved. That case would probably have to be reviewed and the HET would agree that that case would have to be, in fact they have taken steps to begin to do that. The second thing is that a lot of this work is not so much about the outcome, a lot of it is about the process. A lot of it is about what the HET describe as the palliative side of this, which is looking after the needs of the families and liaising with the families and keeping them informed, and they have now come to the position where they have got much better at that, they are much more responsive to that and they are much more, I think, subtle around those areas and they are making much better progress. Not everybody will be satisfied, just as there is no full justice in this, there is no full truth. You cannot un-dig the full truth about the past and you cannot un-dig a situation which gives you full justice. What you are trying to do is to provide an adequate position to those who are most intimately involved. Finally, may I say this: one of the disappointments but which is beginning to come is that the articles are beginning to be written by the academics and by the commentators, but this is not all about victims. In fact the biggest part of our report is about our society. It needs to face up to the fact that it is still fighting the past through different methodologies, politics included, to answer the question, politics included, and until this is removed from that agenda this will continue to be fought with venom.

**Lord Eames:** Could I add briefly, Chairman, to Mr Bradley's reference to HET? He mentioned the role and the receptivity of the families. We were struck throughout our consultative period by the fact that in the cases where HET had proved to be extremely helpful to families there had been a person to person relationship in the investigation. There had been great effort made to speak to the families on a personal basis and it emphasises—and I beg the Committee to recognise this—that throughout this system and this very serious situation where people are suffering and people are hurting that the solution to moving us forward has got to be on a personal level and personal basis. It is individuals who are hurting, it is families who are hurting, it is grandfathers, fathers and mothers who are hurting and no matter what way we look at the political labels, no matter what their own political outlook would be, we have been left with no other conclusion but that Northern Ireland is a very small place, many people know each other and that in that situation the

sort of general rules for reconciliation and the general rules for moving us forward that would apply in a much bigger society, a much more complex society, simply do not exist. Somebody asked us, "Why don't you bring into the suggestion the South African Truth and Reconciliation Commission?" From an early stage—and I personally took responsibility to investigate this—I was quite convinced that system would be useless in Northern Ireland. So, if I may coin a phrase, what is contained in this report is a Northern Ireland suggestion to ameliorate a Northern Ireland problem.

**Q34 Lady Hermon:** What made the South African model and other models around the world unacceptable in Northern Ireland? What would you put your finger on as making those inappropriate?

**Lord Eames:** If I could make use of the information source which I drew mostly on from a South African situation, many of those involved in the South African Truth and Reconciliation system would not do the same again. They said to us, "There were mistakes in what was done. There were errors of judgment", and I think we have admitted to the fallibility which exists around this, but they told us that some of the things that were asked of people coming before that system were to "Tell the truth", to confess, whatever way you want to describe it. They would not do this again. It is a very complex issue and they would not do it exactly the same way again because if you go to South Africa now and look at the consequences of what lies at the root of the consequences for that truth and reconciliation process there are many, many outstanding problems in the "Rainbow State" as it is called. A close colleague of mine over the years who was very much involved in the South African process was very open with me and said, "Look, I cannot see this system working in Northern Ireland. I just can't see it being translated into Northern Ireland, (a) because of size, (b) because of the colour issue that they faced, and (c) because it is a totally different situation where almost unanimously we wanted this to end". I am afraid that was one of the reasons why I felt I could not recommend that that system would apply to Northern Ireland. I hope that is a fair answer.

**Kate Hoey:** Thank you. That is helpful.

**Chairman:** That is a very fair answer.

**Q35 David Simpson:** Lord Eames, you had indicated at the beginning that a wide range of consultation was carried out. My understanding in my own constituency of Upper Bann is that there was one victims' group, the HURT group, which was never consulted on this issue, but maybe you could look into that and see if that is the case and come back to me. I am informed that is the case. Could I finish with this: why were there no public meetings held outside Northern Ireland?

**Lord Eames:** There were public meetings held in Dublin with the Dublin-Monaghan Group. In fact we were overwhelmed by the number who wished to come to that meeting. So far as the mainland United Kingdom is concerned, we went through the MoD

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to ask of the soldiers who had served in Northern Ireland did any of them or families wish to contact us. I cannot give you, Mr Simpson, the exact figures but there was a response to that, but we did not have a public meeting, that is true, on the mainland UK. If I could just very briefly add, as I said in the introduction, we were overwhelmed at a stage and in a sense I have to say from my experience of other commissions, doing other things over the years, it is a miracle we got through it in 18 months.

**Q36 Chairman:** This must have made the Church of England a doddle for you!

**Lord Eames:** I would rather not comment on that, Chairman!

**Q37 Mr Murphy:** In your section on reconciliation, gentlemen, you make little mention of integrated education and I was surprised to hear Barry McGuigan on the radio this morning campaigning for something he has long argued for, that is more integrated education as part of reconciliation. Is it something you would consider?

**Mr Bradley:** I do not accept your premise that we did not. I think the report, without being waylaid, makes very strong recommendations around education and challenges to churches particularly to look at the issue of education and it says very specifically that to educate our children separately may be an issue that has to be looked at by the churches because it continues the division and the separation that happens within our society. We talked much more and we are much more persuaded, not so much by integrated schooling but by integrated education, which is slightly different and on which there is much happening in Northern Ireland and more, in our opinion, will happen because of economic issues. Schools are not going to be kept open unless they actually participate with each other in a lot of places and they are going to have to, for economic reasons, find ways of doing that. Now, the Bain Report, which was done by Professor Bain of Queen's University, has made a big reference to that, but I think if you read our report very closely there is actually strong suggestions and strong issues around and particularly the Church is grasping this issue.

**Q38 Mr Murphy:** Do you find that the Church is one of the biggest opponents to integrated education?

**Mr Bradley:** Well, that is my own personal view. I would not speak on behalf of the Group on that one, but my own personal view is that the churches need to grasp this very difficult nettle. I think there is a very strong tension between tradition on the one hand and the need for the core of what I believe is the Christian position, which is the reconciling of old hurts, old wounds, and old conflicts, and that has to be grasped and put ahead of the desire to keep old traditions and ethos going. I think that gets us into the heart of where some of the churches would have strong views.

**Lord Eames:** Perhaps, Chairman, I speak with particular feeling on this question for obvious reasons. It is very, very easy for the churches, this great phrase "the churches in Northern Ireland" to

take so much of the blame for the divisions of Northern Ireland and for what went wrong and what we did wrong. I accept that degree of criticism because the people I worked with, and privileged and thankful to work with them for 40-plus years, are people who cared, people who wanted earnestly to forget about the labels of denominationalism and to reach out in a purely Christian sense to try and heal their community. That was a privilege that I will take to my grave with me. But to simply say that integrated education on one hand is going to answer everything is to question the sanctity of schools which over the years have been the oases of peace for so many of our children and I do beg the Committee to recognise that fact, and those of you from Northern Ireland I hope will agree with me. But I think it is vitally important to recognise that at the present time in, for example, the grammar schools structure there is far more integrated learning and integrated service than there has ever been in my lifetime and I would want to push that because I am not trying to fly a flag for the so-called grammar school—I have to return to Northern Ireland tomorrow—but I have to say to you that over the whole field of education the responsibility for the schools in Northern Ireland doing something to bring us forward must be equalled by the service that we should pay tribute to for what they have already done, and I refer particularly to the teaching profession in Northern Ireland.

**Mr Bradley:** I just need to add one thing to that. As with anybody in Northern Ireland there are differences around this, theological differences. They end up in a pub in the Shankill as they end up in a pub in the Bogside, except they become much cruder by the time that distillation takes place, and when people wear Rangers shirts or Celtic shirts it is partially theological and people get killed daily for that theological division, and that is a challenge. It is not about the cosy comfort of the school, it is about the actual crudeness that you find in particular communities. That is not particular to Northern Ireland, you will find it in many parts of the world. You will find it in the east and west divisions, but theological divisions result in that and we argue about that on a daily basis.

**Q39 Kate Hoey:** Except, Mr Bradley, you can be a Rangers supporter or Celtic supporter and wear your shirt with pride and not be involved in any kind of activity that you are mentioning, so I do not think we should label all people who wear football shirts—

**Mr Bradley:** Sorry, I was not labelling all people who wear Rangers shirts, I was just pointing out that actually on the streets of Northern Ireland young people get kicked because they are wearing a Rangers shirt or because they are wearing a Celtic shirt.

**Chairman:** I am afraid it happens here too. I want to bring in Mrs Robinson and then Kate Hoey.

**Q40 Mrs Robinson:** I am going to move away from the integrated education because my belief is that the state system was for all and that that is what we should be looking at. However, Chairman, I would

like to ask the two gentlemen whether they have read Frank Mamour's comments as espoused by Peter Smith QC, who served as a member of the Patten Commission on the reform of the RUC, where he says basically under the HET "the Eames-Bradley report laid stress on the need for its proposals to be Human Rights-compatible and recognises that witnesses may need access to legal advice". Against that Mr Smith said the apparent guarantee against self-implication sat alongside a power to compel witnesses and the production of papers in proceedings intended to be non-adversarial in which it appeared a person accused of serious wrongdoing or criminality would be denied the basic courtroom rights to face his or her accuser and to challenge them by means of questioning by their lawyer. "The position in the common law world is that where serious allegations are to be made an individual must have these rights", said Mr Smith. "For any commission or tribunal to adjudicate on a person's alleged criminal behaviour without these essential safeguards"—talking about human rights safeguards—"would be revolutionary". Are you gentlemen revolutionaries?

**Mr Bradley:** Yes, and I believe Peter Smith is wrong for this reason, if I can follow this through. First of all, Peter Smith is a QC and a very eminent one, and one for whom I have the strongest, highest regard. I think his interpretation of the report is wrong. In the truth recovery there is no placing of blame on any individual. That is very clear in the report. There is placing of blame on organisations and that is completely different. If you read the article you are referring to, Peter talks about the laying of blame on an individual and within common law you cannot do that, according to Peter's definition, without actually having a lawyer present. We are saying—and it is very clear in the report and I think Peter has misread it—that there will be no blame within the truth recovery process, laying any individual blame, and that is why I disagree with Peter on that.

**Q41 Kate Hoey:** If you strip away the section which the Secretary of State has ruled out this morning, for all of the suggestions you are making, all these different almost kind of job creation schemes, what is the overall cost you have estimated? Is it more than what is being spent at the moment on all the various bodies that we have met through our various inquiries or is what you are proposing in any way a rationalising of this? It seems to many people to be a huge amount of money being spent and perhaps not necessarily ending up with any real result in terms of changing what is actually happening on the ground in Northern Ireland.

**Mr Bradley:** Well, we know our prices, we know our costings. We do not know the other costings, so we are not necessarily comparing like with that which we know. I will give you two examples on that. There is a strong call for an all-Ireland tribunal public inquiry into the Omagh bombing.

**Q42 Kate Hoey:** Where is that coming from?

**Mr Bradley:** From the Omagh people.

**Q43 Kate Hoey:** That is not in your report.

**Mr Bradley:** It is not in our report because it does not fall within our brief. The timing does not fall within our timescale and the Omagh people asked us to keep them outside of our report, but what we have said in our report is that we actually think they should come into our report because our mechanism would get some of the answers which we believe they desire and have the right to. So when we do our pricing it depends on whether there is an all-Ireland tribunal, which I think there will not be, and we have told the people of Omagh we do not believe it. We are not too sure the politicians have told the people that they are highly unlikely to get an all-Ireland inquiry. If, for example, you take in that under the Weston Park agreement there was an agreement between the Irish Government and the British Government for a tribunal/public inquiry into the Finucane case, if one were to cost the Finucane case then we are cheap at half the price because it is our belief that the Finucane case would cost in excess of what the Saville inquiry has cost.

**Q44 Chairman:** Yes, and that is £200 million at the moment.

**Mr Bradley:** In excess of that.

**Q45 Kate Hoey:** So you think your report is value for money if you were looking at it in that way?

**Mr Bradley:** It depends where you start and where you end. What we will say is that even if nothing happens, this report never sees the light of day in legislation, there will be £100 million spent on the HET and the Police Ombudsman's office dealing with the past and that is only the up-front part, that is not all the hidden cost. The second part is that if any other inquiry of any kind comes into the reckoning then the figures get blown out of the water. The other thing is that we have actually tasked the Irish Government with supporting this financially because we do not believe that the contentious issue around the Dublin-Monaghan bomb, to take one example, can be settled unless there is a procedure the likes of which we have recommended. If they put in a certain amount of money then that reduces the amount. Thirdly, if you take out the £40 million, which was the cost of the recognition payments, then you are down to £260 million. We know where it starts and we know where it ends in rough figures. No one knows how much all of this is going to cost if it continues to be fought through the policing system, the Ombudsman system, the court system and the interchange between the British and the Irish Governments.

**Lord Eames:** May I add briefly to that, please? We did not set out on this exercise to produce a report which would cost less than any particular—it was not financially driven. The conclusions Mr Bradley has referred to, the figures are round figures, but may I just add this to that dimension: if there is one thing that frightens me about the whole judicial situation in Northern Ireland at the moment it is that no one can tell where it could lead to given the present situation, where inquiries are concerned, coroners' courts are concerned, both the civil and criminal

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cases that are pending from those who now believe that the law interpreted shows that they would have a redress because of the way in which information was gathered from an informant, and so on. The potential for the cost to Northern Ireland of that situation remaining as it is is unbelievable. Mrs Robinson, quite rightly, a few minutes ago referred to the question of the expenditure right across Northern Ireland. There is one aspect of it that worries me considerably. How in moral terms, let alone factual terms, Chairman, can you justify the amount of money that is being spent on the Bloody Sunday inquiry? I am sorry, but I am a person who pastorally feels for people and I feel for the people in the city that my colleague comes from, but I have to say over the whole picture some nettle has to be grasped to find a different way of doing this. The second point to make about this is, Chairman—and I am sorry to go on, but it is important and I referred briefly to this in my introduction—people say to us, “We want justice”, and you begin at one end of the rainbow of seeing somebody in the dock and you go through a huge range of things and you end up with the case you quoted of the mother of a security forces person who said, “I simply want to know, did she have her dinner before she died?” I am sorry, and you may be different from me, but a story like that goes through me like a knife. That means we did not set out necessarily to present a nice, neat budget so that you and other legislators, because you have the responsibility in this, could quite quickly say, “That’s lovely. We’ll grasp this because we’re going to save £X million”. I could not tell you how much this will save, but I can tell you that in the depths of our hearts and the depths of the way we have gone about this—all right, mistakes could have been made in the way it was presented, but at the end of the day we believe this is moving Northern Ireland towards the justice that Northern Ireland deserves and Northern Ireland needs for the next generation and I certainly do not want to end my public career not playing some small part in moving that forward, whether you agree or disagree with the recommendations.

**Chairman:** Thank you very, very much for that. We are moving towards the end, but there are specific questions I want to bring in. I think Mr Murphy had one.

**Mr Murphy:** My question has been dealt with.

**Q46 Dr McDonnell:** I have a brief question. I was taken by the point that you talked to the victims and talked about injuries, Lord Eames, when you spoke earlier in your introductory remarks. You talked about the injured, the victims, and you laid some emphasis on the psychological damage. Did you detect in the course of your 18 month inquiry a failure on the part of our Health Service to pick up on the needs of people, because it is my personal belief that there was a lot of failure around there and it was only in the middle 1990s that I found the Health Service trying to give people the support they deserved?

**Lord Eames:** Two answers very briefly to that, if I may. Yes, there was evidence given to us that in fact collectively the health authorities were not conscious or sensitive to the psychological trauma. We saw excellent work of people like Dr Boulton. We saw excellent work of practitioners now, but could I say, secondly, in a sense this has been late coming but now people in Northern Ireland in the medical profession—and I have to be careful what I say here, but in the medical profession people are now recognising that there are totally new avenues in the treatment of psychological cases and that the trauma is often hidden even from nearest and dearest until it is detected. You, as a doctor, sir, will know exactly what I am talking about. The third thing I would say about it is this: in our recommendation under the heading of “Reconciliation” we not only mention some of the things which have been discussed today like education and the churches, et cetera, but we do make an appeal—I cannot give you the page, but we do make an appeal to the medical profession and the hospitals and the health system to recognise afresh that this hidden consequence or legacy of the Troubles is probably just as desperate a need to meet as any of the physical. I saw this in the case of two people who came to me during the course of our process, one with no arms and the other who came and who looked totally normal until we began to talk. I had to say to myself, “Both those are victims of the Troubles”. One happened to be a former member of the security forces and the other what is generally described in this room as “an innocent victim” but that did not matter. I had to look at them as two human beings who were suffering the legacy of the Troubles and we were trying to put some proposals forward to move us on, and that is the point I am making, that in answer to your question the depth of feeling among those who suffer the ongoing day and night trauma of the Troubles because of psychological illness is beyond our estimation.

**Mr Bradley:** Just to add to that very briefly, Chairman, there are some tensions still existing—it is getting a bit better but there are some tensions still existing between the voluntary independent sector and the statutory sector around this particular question you are asking. That has not resolved itself and part of what we put in to the Legacy Commission was a task that would actually coordinate some of that. Good work has been done on both sides but little coordination and a fair amount of tension still exists.

**Q47 Lady Hermon:** I need clarification, please, on two points in relation to the five year lifetime of the proposed Legacy Commission. Number one: we have already taken as a Committee evidence from the Police Ombudsman, I think it was. The Police Ombudsman felt that seven years was much more realistic. Why are you so convinced that all of this work, a huge volume of work, could be undertaken and completed in five years? Are you adamant that five years is the right timescale? The second point is clarification of a very sensitive issue which appears on p 157 of your report and that is at the end of the



five year mandate of the Legacy Commission it might bring recommendations to embrace a procedure for dealing with historical cases in respect of “on the run”, a very sensitive point and it is just full stop. Could you give some clarification to the Committee as to what you actually have in mind?

**Lord Eames:** Yes. First of all, the question of five years. We could have picked any figure. We chose five years for the simple reason that one of the things that came through virtually all the evidence that we had presented to us in the 18 months was that if we were not careful of setting some sort of time limit this would go on and on and on. I am obviously not wishing to defend just the figure five, but we had to choose a figure which would be realistic.

**Mr Bradley:** But it actually is seven. We are in agreement with the Ombudsman’s Office because we believe that it will take two years to get this Commission set up, so two plus five, and the HET will be working and the Ombudsman will be working during those two years, so that will be seven years.

**Lord Eames:** Which is what I was coming on to say, that it is in fact seven but the work of the Commission, as it gets going, we think and are advised by those who advise us could be done in five years.

**Q48 Lady Hermon:** Okay. On the runs?

**Mr Bradley:** Well, on the runs is a very, very difficult one and you are the first person who has actually asked us the question, which I find shocking, the lack of the question coming from certain quarters.

**Q49 Lady Hermon:** I think Mr Simpson did mention this.

**Mr Bradley:** Sorry. I did not mean in here today, I meant out in public.

**Q50 Chairman:** When you said “you” you meant collectively “you”. We must not be too touchy!

**Mr Bradley:** On the runs has been through this House and it has been thrown out of this House and it has created enormous strife between one of the sharing parties in Northern Ireland sharing power and the rest, so it is the most contentious, except that legislatively the field has been made very muddy and we had strong representation from the parties and from politicians that actually we should grasp this nettle too, and we said, “No, we will not grasp this nettle because too much damage has been done, too much obscuring of the issues has been done”. But we did say that at the end of the five year Legacy Commission all things should be put to bed, including that, and that will be up to the Commission.

**Chairman:** Thank you very much. Did you have one quick question?

**Q51 Mrs Robinson:** I have one very, very small point to make. Is it not really the case that we are giving people a false hope that all the issues around the 40 years of the Troubles could be dealt with in five, seven years, whatever it is going to be, but at the end of the day there is not going to be an outcome that

will satisfy anyone because no one is going to brought to book and charged with any of the offences? Would it not be more appropriate—and I am trying to say this in terms of trying to help—for people to come and record their own individual experiences and have them put on public record in archives for perpetuity, to let folk see exactly what their hurts are and what it did to them, their families and the grandchildren, all of that, that we should be able to record that?

**Lord Eames:** You have touched, Mrs Robinson, on a vast part of our research and our thinking. Two quick answers to you. First of all, storytelling is the phrase many people use in a post-conflict situation and many of the political representatives who met us emphasised storytelling, if I may presume to say so, including your own party. There was a suggestion put to us from a very reliable source that we should, in terms of a museum or a memorial, or whatever, have some sort of receptacle whereby people’s stories could be kept and kept in a sense as a living memorial to what they have gone through. There was also a suggestion at the same time, because I am going as far as I can with your question, that in fact confidentiality of this should be reflected on something like the 25 year rule, that there should be a period when people would feel, “My story has not really come into the public environment”. But there was against that the suggestion from several of the experts we interviewed who said, “Look, in other countries the important thing was to get a society that was willing to listen to the story of other people, not just tell their story but listen to the stories and the suffering of other people”. So somewhere in that is the balance. Now, underneath your question is, in my humble opinion, an even bigger question and that is the meaning of the word “remembrance”. In the community I come from 11 November is sacred. There are those in our society who would not see it the same way as I see it, I accept that, but one family’s remembrance is a very individual act on their part, what they want to remember, how they want to remember it, and I would always want to protect the right of a family to have their say in how they are left to remember a loved one. That I think is vital. The trouble with our report and the trouble with our thinking which produced the report is that to magnify that onto a community site, a community level and a community broad site it is almost impossible to encompass all the various attitudes to remembrance that there are in Northern Ireland society at the moment. Therefore, we would have hoped—and it gets back to Lady Hermon’s question and my answer to her a few minutes ago, it gets back to how long does it take to remember and how long does it take to forget not to remember because the forgetting of remembrance is not necessarily sacrilege, it could be healing for a family or a person and I have had a lot of experience of that with people. Therefore, our problem was to try and take that and translate it into a community-wide basis. That is the most honest answer I can give you.

**Mr Bradley:** Just to add to that, the four Victims Commissioners are tasked with that and have already grasped some of that and are trying to

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promote it. It is going to take a certain amount of money to do it properly, but I think it is a very, very good, important suggestion. I do not fully agree with you that we could not on the basis of what we were consulted by people take any recommendations that said the hope of prosecution should be taken off the table. The number of people who appeal to us, who cried to us that the possibility of prosecution remained open are numerous and the reason why this is a complex report and a complex piece of work is because it was a consultation, and there were very strong appeals from people to actually keep the possibility, even if it is only a possibility, that somebody will be charged some day. We were true to the consultation to keep that open and that was partly why we went away from amnesty. There were other reasons, but that was part of the reason, and that is why the HET process actually comes into being.

**Lord Eames:** There were some people, Chairman, going back to Mrs Robinson's question, to whom we said, "Look, in all honesty do you ever believe there will be a prosecution in your particular case?" and to some of them that was a question which promoted this answer: "Our heart says we hope there will be; our mind says and our experience is that we will probably die before that happens". May I be personal? One of the hardest things during our process was to say to a family like that, "We cannot propose any recommendation that will help you because we have heard your cry and we know there is no answer". That is what I meant by saying at the beginning that one of the definitions of justice was, "We have not got an answer". I am sorry, but that is a very personal thing.

**Q52 Chairman:** Lord Eames, you have tried very hard to give us answers this afternoon and I know I can speak for the Committee in thanking you very much. This is an emotive and contentious area. I admire the integrity and the courage with which you have faced up to your task as a consultative group. It would have been impossible for anybody to expect you to produce something on which there would be immediate unanimous agreement, but I hope that what the Secretary of State has said today will perhaps enable us to concentrate on those other aspects of the report on which both of you have spoken with passion and feeling, and I could see heads that earlier in the session were not nodding were nodding towards the end when you talked about aspects of education and health and the role of the churches, and so on. Thank you for what you have done and thank you for coming before the Committee. We will certainly reflect on what you have said today. The Committee will very possibly want to make a report. We may well wish to correspond with you both and ask for some supplementary information and I know from our previous contacts that you will be as helpful as you can be, but we do appreciate your coming.

**Lord Eames:** May we say to you all, thank you for allowing us to talk to you. Thank you, Chairman, for the invitation and while you may agree or disagree with what we have in this volume, I think I can say with integrity that it has been a very, very difficult task and it has been emotionally draining.

**Chairman:** I think that is very apparent to all of us and even with our investigation we felt, when we had seen certain witnesses, very, very emotionally drained too and you did very much more of it than we did. Thank you, gentlemen, very much and a safe journey back. The session is closed.

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**Wednesday 29 April 2009**

Members present

Sir Patrick Cormack, in the Chair

Christopher Fraser  
Lady Hermon  
Kate Hoey

Dr Alasdair McDonnell  
Stephen Pound

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*Witnesses:* **Mr Brendan McAllister** and **Ms Patricia MacBride**, Commission for Victims and Survivors, gave evidence.

**Q53 Chairman:** Could I formally welcome you and invite you to say a few words to introduce yourself and Mr McAllister and then we will ask you some questions. We are on quite a tight timetable because there are going to be a number of votes in the House at four o'clock and we wish to give you and the other witnesses equal time.

**Ms MacBride:** Thank you, Chairman, and to the Members of the Committee for giving this Commission the opportunity to come before you today and to give you our initial thoughts on the Report and the recommendations of the Consultative Group on the Past. I am thankful that we were able to do so at relatively short notice and that is why two of the four of us appear before you today. Neither Mr McAllister nor I intend to take the lead in terms of giving evidence; it is more a matter that each of us will address perhaps specific areas that are contained within your questions to the best of our ability. So thank you once again and we are happy to take your questions.

**Q54 Chairman:** Thank you very much indeed. Would you like to give us then your reaction to the Consultative Group's recommendations regarding the establishment of a Legacy Commission, which is very central to what they are recommending? What is your reaction to that?

**Mr McAllister:** First of all, Chairman, we have been committed to developing proposals for dealing with the past from our foundation. We were anxious to give the Consultative Group on the Past room to do its work and then deliberate on its proposals. We intend to advise the Secretary of State and the First and Deputy First Minister, hopefully by the early part of 2010. We have set ourselves a project with two objectives. The first is to facilitate reflection about the proposals of the Consultative Group in Northern Ireland. The second is to advise on an approach to dealing with the past that commands consensus in our society. We intend to do this by using the Victims and Survivors Forum, which we would hope will be convened later in the year—and you might want to ask us about that. We also intend to engage with civic society across Northern Ireland and also to engage with those whose cooperation was envisaged by the Consultative Group on the past. By that I mean republicans, loyalists, the security forces and former members. Then we want to form our own mind at the end of that. So we are projecting a timetable by which we would like to

think that by the early part of 2010 we will have more conclusive things to say about the Consultative Group Report.

**Q55 Chairman:** If you forgive my saying so, that is a slightly political politician's reply to a direct question. What is your reaction to the proposal for a Legacy Commission? Do you think that it is a good proposal, one that needs refining; or do you think that it is a proposal which is not realistic? Do you think, for instance, that it will help to reconcile communities within Northern Ireland? We really want your take on this because we are going to have to make our recommendations and we want to do them having had proper regard for what the Commissioners think.

**Mr McAllister:** Yes and we will have an opportunity hopefully now to look at different aspects of the Legacy Commission proposal. In broad terms, though, we accept in principle the value of creating a body to address the past but we would want to talk with you about aspects of it as envisaged by the Consultative Group.

**Q56 Kate Hoey:** Do you feel you that you have an understanding of what the Legacy Commission is, or is it just a nice name?

**Mr McAllister:** We have an understanding as set out in the Consultative Group Report; that is the basis of our understanding.

**Q57 Chairman:** You said you wanted to share some thoughts with us; this is the opportunity for you to share those thoughts, if you would like to tell us what you think. If there are things that you wish to draw the attention of the Committee to privately then by all means submit another document after this session because one does appreciate the sensitivities here, but are there thoughts on this that you can share with us now, and bear in mind we do want to go through a number of the recommendations. I shall be bringing in Dr McDonnell in a minute and then we shall have some questions about the disputed payments and all that, but do share your thoughts on the Commission briefly if you can.

**Ms MacBride:** Our understanding obviously is that the Consultative Group has recommended a four-stranded approach within the Legacy Commission, dealing with societal issues, review and investigation, information recovery and thematic examinations. We accept the principle of a body which is dedicated to investigation and information

recovery and, indeed, thematic issues, and the devil in those will be in the detail of how they come together operationally. In terms of the issue of addressing societal need, certainly the Commission has a number of concerns and whilst we realise that there must be a strategic and co-ordinated approach to addressing societal need, we are very mindful of ensuring that we assure value for money in doing so, that we do not undermine or undo the work of organisations already engaged in addressing the legacy of the conflict in terms of sectarianism and in terms of division within our community. So we would be looking to ensure that that societal needs strand is addressed through current provision and augmented where required.

**Q58 Chairman:** How do we do that?

**Mr McAllister:** We were prepared to talk through each of the strands with you. With regard to strand one, societal issues, we had quite a bit of discussion with the consultative group about this proposal in advance of the publication of the report, and we voiced some concern that their thinking on the societal context could impinge on the work of our own body and on other bodies such as the Community Relations Council. We appreciate that when you read the Consultative Group Report you can see their argument very well set out about the value of bringing in an internationally-led outside body to critique how Northern Ireland institutions are themselves addressing the problem, and we are in a sense one of those institutions. However, there is this danger of duplication. My colleague has referred to the financial and efficiency side of things, but there is also the fact that there is quite a bit of work already going on in Northern Ireland with regard to the past and with reconciliation, some of it very long established, so we would be keen that that work is not undermined in any way.

**Q59 Chairman:** You are troubled a little about the possibility of duplication and you are troubled a little about the cost implications; perfectly reasonable points for you to register.

**Mr McAllister:** There is a third point worth registering then and that is that from the point of view of a body such as ours, whose job it is to promote the interests of victims and survivors, as the legislation states, you could say that the Consultative Group on the Past look at victims through a societal lens and we look at society through a victim lens. We will talk in another while about the proposed Reconciliation Forum and in our discussions with the Consultative Group it was envisaged as a mechanism that the Victims Commission would convene so that societal issues could be discussed in a comprehensive, joined-up way, between any new body, between ourselves and particularly with the Community Relations Council.

**Chairman:** I would like to bring in Dr McDonnell at this point.

**Q60 Dr McDonnell:** Chairman, that is a very good cue to come in on there because I really want to explore with you the Reconciliation Forum and your

general reaction to the suggestion that you would be invited to convene that. Am I right that you would convene and manage that?

**Mr McAllister:** That is the Consultative Group proposal, yes.

**Q61 Dr McDonnell:** Are you happy enough with that?

**Mr McAllister:** We are happy with the concept. I have to say we are a wee bit uncomfortable with the use of the word “forum” and concerned that that might be somewhat misleading by creating an expectation of large numbers of people engaged in this. We know from our discussion with the Consultative Group that they envisaged the key agencies who have responsibility for societal matters—principally ourselves, the Community Relations Council and any new body created out of the Eames-Bradley Report—that this would be a tripartite mechanism that the Commission for Victims would convene to address these matters.

**Ms MacBride:** I merely want to add to that that we believe that the concept of reconciliation itself needs careful examination in the context of an approach to the past. We are concerned that there is an automatic linkage here between truth, justice and reconciliation. We can pursue a search for truth, a search for justice, we can develop an approach to societal issues, but we do not have a shared understanding as yet as to what reconciliation means in practice. For some people that may mean them individually becoming reconciled with the events of the past that have impacted upon them, for others it may mean a communal reconciliation between opposing political viewpoints, and for yet more it may mean society as a whole becoming reconciled to moving forward together in a new and inclusive future. The debate therefore about the substantive nature of reconciliation has to, we believe, form part of the debate on how we together move forward and deal with the past. The Commission wishes to facilitate reflection by others on how we collectively approach that.

**Q62 Dr McDonnell:** To what extent do you believe that the proposed Reconciliation Forum would improve service and help address some of the issues that have, if you like, arisen from the troubles, been stranded out there or left hanging? Have you time to assess this potential for social change in terms of dealing with some of the issues?

**Mr McAllister:** Again, we gave it a welcome in principle. As my colleague said earlier a lot will depend on the final proposals and terms of reference for any such body, but the basic idea of creating a mechanism convened by the Victims Commission, which would bring together our work along with that of the Community Relations Council, for instance, and any new body that is created around the past—especially around justice issues—each of these bodies will have a perspective on the societal context of dealing with the past that, when joined together, will be a bigger picture.

**Q63 Chairman:** You indicated that you thought the word “forum” could be capable of misinterpretation.

**Mr McAllister:** Yes.

**Q64 Chairman:** It would be very helpful for us to know what word you would prefer and how you would see this, because I understand the point you make and I could see my colleagues nodding as you made it, but what would your suggestion be?

**Ms MacBride:** If it would help to explain, in an internal context when we as a Commission are debating the recommendations of the Consultative Group we are referring to it as a Reconciliation Panel, and the reason we are doing that is because our enabling legislation as a Commission mandates us to establish a forum for victims and survivors, so we have done so purely to differentiate internally how we are viewing it, but that forum for victims and survivors which we are in the process of developing will have a specific job of work to do. Part of that job of work will be to examine the report and the recommendations of the Consultative Group, so for us it is very much about clearly defining the difference between what we are addressing currently as a panel.

**Q65 Chairman:** I do not want to pin you down on specific numbers, but what sort of size would this Panel be. Are we talking in terms of a body of half a dozen or a dozen?

**Mr McAllister:** The Consultative Group envisaged the four Victims Commissioners, representatives or leaders from the Community Relations Council and the lead international commissioner from the Legacy Group.

**Q66 Dr McDonnell:** If I could come in there, I have a particular concern in that I feel—and part of this may be drawn from my previous medical background—that victims were not particularly well cared for by the health service, for instance, and if you want me to explore that a bit further while wounds may have been bandaged up, mental scars were not, and I have a sense that a large piece of the victim issue and the victim problem out there is one of poor mental health support for those who were badly mentally scarred as a result of various incidents. Is there some way in which you could bring the DHSS or the Department of Health personnel in some shape or form into that as well, because I feel personally that that problem will be with us for as long as victims live?

**Mr McAllister:** Yes, and when you mention health, Dr McDonnell, it is a very good example of a societal issue. It would be wrong to approach the needs of victims and survivors on purely a case by case basis; at some stage people need to see the bigger picture, that all the individuals are part of, and health remains a priority area of interest for the Commission as we plan for our existence over the next three years and potentially for a second four-year term. For instance, within the health field it is a concern that there is a lack of consensus in Northern Ireland about a concept of conflict related trauma.

There is a lack of agreement among theorists, academics and practitioners about the best models for treatment—indeed whether the medical concept of treatment is appropriate—and there is no clear agreed strategy for the whole of our society. Within health trauma is an example of a profound issue which needs urgent work done and strategic thinking applied to it, we would like to think that in the kind of mechanism envisaged by the Consultative Group there would be a place where three important perspectives could meet, each of them having a view on health needs based on their work.

**Q67 Dr McDonnell:** Thank you. Just to conclude, you would certainly be comfortable as the lynchpin of that group.

**Mr McAllister:** Yes.

**Ms MacBride:** If I could also add to that, we believe that the report and the recommendations of the Consultative Group give us an unparalleled opportunity to address the needs of those who have been injured as a result of the conflict. The numbers could go up to 40,000, the people who have been physically injured as a result of the conflict and whose needs have not been met. We have focused in the past on those who have died and those who mourn the loss of their loved ones, and in the context of addressing health issues those are very real issues. If we look at the individuals that we have dealt with, those needs change as they age. The requirements for different kinds of services and interventions change, so they range from physical pain management right through to psychological services, and we would like to see that that entire package addressing those who have been injured forms a part of the work that is undertaken within the programme of work that we have.

**Chairman:** Before I move onto Mr Fraser with perhaps the most controversial aspects, Lady Hermon caught my eye on this particular point?

**Q68 Lady Hermon:** Yes, Sir Patrick, that is very kind of you. I just would like some clarification, just picking up on the point Mr McAllister made a few moments ago. Am I right in thinking that you feel that the Consultative Group on the Past, the Eames-Bradley Commission, did not really pay sufficient attention to the legislation establishing the Victims Commission?

**Mr McAllister:** No, I would not say that because we had substantive discussions with them and believe that they tried to take on board some of the major points that we made to them, but we are not convinced at the end of the day that they got the balance right in terms of the breadth of the body that they envisaged because of the involvement they would have on societal issues. We believe if you look into the detail of the Consultative Group Report you can see there where they pick up on our suggestion that it is important to approach societal issues in a way which does not undermine existing bodies, particularly the Community Relations Council and indeed our own commission.

**Lady Hermon:** Thank you.

**Q69 Christopher Fraser:** Do you support the Secretary of State's decision to reject the recommended recognition payments?

**Ms MacBride:** It was unfortunate that that announcement, the leakage of that particular element of the recommendations, drew the focus away from the report in its entirety and from the other 30 recommendations contained in the report, and there is no doubt that there is a lack of public consensus or support for that particular recommendation at this time. In terms of how we as a Commission approached it, we took a very pragmatic corporate approach to the idea of a recognition payment. We deal on a daily basis with people who have real and genuine need. I can cite you the instance of a widow from the 1970s who was afforded £400 in compensation because the judge told her that she was a fine-looking young woman who would find someone else to take care of her; £12,000 would have made a huge difference in her life. We have a huge number of people who have been under-compensated or not compensated but the money simply does not exist to revisit the issue of compensation and to pay people what they would have expected or what they felt was due to them as a result of the loss or injury that they sustained, so we took a corporate, very pragmatic approach that this £12,000 would address need in some of those instances. It is fair to say that one of our colleagues took a position that he felt that because the recognition payment was not targeted specifically at need and because it had the potential to create division within families who may not agree as to whether to take the money, or indeed whom within the family should receive it, it was probably not a good recommendation, but overall as I say a corporate view was that we welcomed the payment. Having now set it aside the Secretary of State has removed it from the equation.

**Q70 Christopher Fraser:** Do you accept that point? Do you accept that he has done it and you will go along with that?

**Ms MacBride:** My understanding is that he has removed it from the equation to facilitate debate on the remainder of the recommendations.

**Christopher Fraser:** Yes.

**Q71 Lady Hermon:** But do you regret that; do you regret his decision to set it aside?

**Ms MacBride:** I do not know; it was a very divisive issue and we have to recognise that it was a very divisive issue.

**Q72 Chairman:** That is the reason he set it aside.

**Ms MacBride:** Which is the reason that he has set it aside. I have no idea whether in the future there will be an opportunity to revisit it, but what I am hopeful of is that the package of measures that is delivered as a result of addressing societal need will in some way ensure that people's needs are met. It may not be through a recognition payment; if it is through improved services that people require to help them deal with the past, if it is through the delivery and investigation and it addresses need that is far more

important than whether the money comes to them as a £12,000 cheque into an individual household or whether it is streamed through a methodology for addressing their needs.

**Q73 Chairman:** What caused the anger—and that is the proper word to use in this context—both in Northern Ireland and throughout the UK was the indiscriminate nature of the payment, that everybody would get it regardless of the circumstances so that, to put it in an English context, it would be the Warrington bomber as well as the victim. This was what caused the problem; do you share that view?

**Ms MacBride:** The view that?

**Q74 Chairman:** The fact that it is indiscriminate makes it offensive. Do you share that view?

**Ms MacBride:** Yes, I understand that that is why people found it offensive, they saw that there was no hierarchy of victims within that. The legal definition of a victim is contained in the enacting legislation which gives us our statutory duties, powers and obligations, and that is the definition that we as a Commission work to: that definition does not recognise that any of those who died is a victim of the conflict, that definition recognises those who have been left behind as victims of the conflict. In terms of the work that we do—and I can say this individually and collectively—we treat everyone that we come into contact with, with respect and courtesy, mindful of the losses that they have suffered and we will continue to do so.

**Lady Hermon:** Sir Patrick, may I just clarify again?

**Chairman:** Of course you can.

**Q75 Lady Hermon:** I did ask if the Commission regretted the Secretary of State's decision to withdraw the proposal for a recognition payment. Could I ask again, just for a clear answer here, did the Commission as a corporate body regret the decision by the Secretary of State to withdraw the recommendation for a recognition payment?

**Mr McAllister:** Lady Hermon, we understand the reasons he gave and we do think that it is very clear that the focus on the recognition payment created a very emotive atmosphere at the time of the publication of the Report and distracted public and civic discourse from the other 30 recommendations. The Secretary of State's reasoning for putting it to the side is that it would enable people now to get on and look at the other 30 recommendations, and as I understand it he has not ruled out the possibility of it being adopted at some stage but would prefer to put it aside for now. That is my understanding of the situation and we are comfortable with that.

**Q76 Christopher Fraser:** You talked about lack of consensus on the issue. Do you believe that the recommendation has increased tensions in the communities of Northern Ireland as a result?

**Mr McAllister:** If you name issues to deal with matters that go to the heart of the story of the Troubles and the conflict that we are suffering then of course it will always raise an emotional reaction.

The very naming of these matters in these times will excite an emotional reaction from people, but with regard to this payment it would be our view that we have to differentiate between those who grieve and those for whom they grieve. We know that people will take a different view on those for whom they grieve, but from our perspective daily we are meeting people from across all walks of life in Northern Ireland, it is a three-dimensional issue for us that confronts us each day and we know the suffering that knows no boundaries.

**Q77 Christopher Fraser:** I do not wish to be at all rude to either of you in the way you are answering these questions, it is entirely up to you to answer as you see fit, but there have been several questions put to you and you have not actually addressed the questions put to you, you have come out with some very carefully crafted words. I will ask it again: do you believe that tensions have been increased as a result of this recommendation, yes or no?

**Ms MacBride:** I would have to say that I do not believe that the tensions have been increased, I do believe that they have become more apparent and more open. The tensions are there, they have been there, they will continue to be there. What we have within the report of the Consultative Group on the Past is perhaps not a prescription for how we address the legacy of the conflict, what we have is a series of recommendations that may take us some way down the road to doing this. In response to Lady Hermon's question do we regret the Secretary of State's decision to withdraw, I do not know that we can say a straight yes or no to that. There are benefits to it on the one hand in that it perhaps clears the way for a more substantive debate on the other recommendations, yet it raises concerns that if one specific recommendation can be set aside so early in the process there is a risk that government may cherry pick amongst all of the recommendations and not look at the report and recommendations as the whole it was meant to be.

**Q78 Chairman:** On the other hand it is quite unusual for a government to accept all recommendations of any report, whether it is a report from this Select Committee or anybody else, so to be worried about cherry picking is perhaps stressing it a little bit too much. One would expect that of any government, whatever its political complexion, and it is conceivable that the definitive government response to Eames-Bradley might even come after a general election which could happen at any time in the next 12 months. You will always have some degree of selection, therefore, and if this recommendation is, to use the jargon, parked and the others are commented on and many of them are accepted, you would not then consider it, would you, a futile exercise?

**Ms MacBride:** The report of the Consultative Group in its entirety? No. We have a duty to respect the professionalism with which the Consultative Group has undertaken the work that they did and we have a duty to ensure that we do not continually ask the same questions of victims and survivors of the

conflict, ask them to retell their stories, come up with what we hope are solutions for dealing with the issues that they face and then ignore them. We have a duty to take forward a process where we actually truly begin to address the legacy of the conflict.

**Q79 Christopher Fraser:** Just for the record, could you just describe to us what your interpretation of the word "victim" is?

**Mr McAllister:** We work to the definition that is set out in the 2006 Order.

**Christopher Fraser:** Sorry, what is your personal understanding of the word "victim", not what is in other places?

**Chairman:** They have a statutory responsibility.

**Christopher Fraser:** Okay, if they could bear in mind how I put my question.

**Stephen Pound:** It might be appropriate to ask if they feel the need to revise the interpretation.

**Q80 Christopher Fraser:** That was going to be my next point.

**Mr McAllister:** First of all I would give you a professional view of the definition of "victim" and it is as set out in the legislation which also established the body that I serve on, so we are being faithful to the law that established the Commission and the definition it gave us. That is the position of the Commission and it sets out five categories, as you will probably be aware, by which we should have a guide as to who is a victim.

**Q81 Christopher Fraser:** Would you revise the definitions?

**Mr McAllister:** That is not a matter that we have considered.

**Q82 Kate Hoey:** But as a group surely you must have discussed this in the context of the way that the law you were working to and the legal definition of "victim" was clearly at odds with substantial numbers of people in Northern Ireland on drawing a parallel between the family of someone who deliberately went out and killed and bombed in the Shankhill bombing, for example, and the family of someone who was doing their duty in the RUC or in the Army. Do you not see that maybe this is where the problem is, that the definition is wrong and has not actually been looked at in the context of what perhaps you would be seeing in the rest of the United Kingdom?

**Mr McAllister:** Ms Hoey, you are very accurately reflecting how many people feel about this issue in Northern Ireland; however, as people who have adopted positions of civic leadership it is incumbent on us to rise above any personal views and to have what I would call a civic view on this. The one that we work to keeps faith with the legislation as it currently exists. In the event of this matter being revisited in terms of a review of legislation, that is something that we as a foursome will have to carefully consider.



**Q83 Chairman:** That is a very professional and, if I may say so, fair answer for you to give because we cannot expect you to rehearse any potential differences in public because people will be following this session with great care. You are seeking to discharge professionally your statutory responsibility but you recognise that there could be a need at some stage for you to sit down as a foursome and perhaps reflect on definitions. That would be a reasonably fair comment, would it?

**Mr McAllister:** Yes. If there were such an eventuality of course we would have to take notice of it and reflect carefully.

**Ms MacBride:** If I may add to that, Chairman, we as a Commission as four individuals, regardless of our corporate togetherness on the issue of working to the statutory definition, define a victim or survivor of the conflict based upon the need that they present to us. We define a human face, we define the needs that walk through our door, we define the needs that are sort out to be addressed with our assistance. You cannot simply categorise an individual because of the circumstances of their loss, you have to have the capacity to consider the human impact of the conflict on these individuals. We have also been directed by the First and the Deputy First Minister that the matter of definition of a victim is one that ought to be considered by the Forum for Victims and Survivors; that will happen, that is a piece of work that we will undertake. We will facilitate that discussion and we will facilitate it hopefully within the context of a broader discussion and how we remember and commemorate a shared and yet contested history. So it is a very difficult piece of work and I do not think that it is possible for us to comment upon what might possibly be laid before this House or indeed the Assembly—in fact, it was this House that actually passed the original definition.

**Q84 Chairman:** Yes, it was.

**Ms MacBride:** It is not possible, therefore, for us to comment at this stage on what might or might not come forward in a legislative sense, but we will continue to address the needs of victims and survivors as they are presented to us and to respect the human dignity of those individuals.

**Q85 Kate Hoey:** But you do understand how many of the public feel about it?

**Ms MacBride:** Of course, we are very mindful of how they feel and we will continue to keep that situation in mind.

**Kate Hoey:** The public are not always wrong.

**Q86 Stephen Pound:** I do not think any of us would underestimate the difficulties you face and all of us respect you and give you credit for the work you are undertaking in this area, but when you talked in your written submission and the points you have just made about facilitating this discussion, is there an issue of overlap in any way with the Consultative Group because they seem to be doing that as well. Are you sweeping up behind the Consultative Group

or are you trailblazing for the Consultative Group or are you possibly overlapping, or is it a parallel process?

**Mr McAllister:** You are quite right, Mr Pound, there is that danger of overlap and duplication; however, what we envisage is something quite different. The Consultative Group conducted an 18-month exhaustive process; we intend over a period of months to take the ingredients that are offered by the Consultative Group and consult with people in situations of careful reflection together in order to inform our thinking about what people in Northern Ireland think of the Consultative Group's ingredients, and out of that to go a step further than the Consultative Group and produce proposals for a formula or a recipe if you like that we believe would command sufficient consensus in Northern Ireland.

**Q87 Stephen Pound:** Do you think that is attainable, sir?

**Mr McAllister:** It is a difficult thing to try and do and it may well be that we will be advising the First and Deputy First Minister and the Secretary of State that there is actually very little consensus. We will try to reflect where we think people have got to, but we think that the significance of the Consultative Group Report is such that it requires careful consideration among people. They have exhorted people to do that in Northern Ireland and we believe as a Commission that it is expected to work collaboratively, not just with victims and survivors but with those whose efforts we need to help us address the interests of victims and survivors and civic society broadly. We need to form our own minds as a statutory commission as to whether or not the Consultative Group proposals actually can bridge a gap between the ideal they set out and the reality on the ground in Northern Ireland.

**Q88 Stephen Pound:** I entirely respect that but Patricia MacBride's earlier comment, which I thought was remarkably refreshing, when you talked about the danger of constantly asking the same people the same questions does present in juxtaposition of the point that you have just made something of a contradiction. Can you assure the Committee that that would not be a problem?

**Mr McAllister:** Can you explain a little bit more to me about the contradiction?

**Q89 Stephen Pound:** Patricia MacBride said that you can ask too many people too many questions—I am sorry, I am paraphrasing the words that you said much more elegantly than I do. You, Mr McAllister, are actually saying that you need to keep teasing out these answers to try to arrive at some sort of a consensus which would be difficult but hopefully possible. It seems to me that there is a certain conflict between those two directions.

**Ms MacBride:** If I can address that, I do not believe that there is. We have asked the questions and I believe that the Consultative Group on the Past gave those questions due consideration and have given their recommendations based on the answers that they received. What we are saying to people is that

what we want to do now is to say you have answered the questions, this is what the recommendations are that have come out of those consultations, are you going to be able to engage with this process to address the needs that you have articulated. I do not see it as being at odds at all.

**Q90 Chairman:** Thank you. Because of timing and the other witnesses and the votes in the House there are two issues on which I would briefly like your reaction, to have it on the record. First of all, do you support the Eames-Bradley recommendation that responsibility for the historical investigations should be transferred from the PSNI and the Ombudsman to the Legacy Commission? Secondly—and this really is related to it in a way—what is the most important immediate course of action that you as the Victims Commission think should be taken to promote reconciliation within Northern Ireland? Could we have on the record your joint or individual reactions to those two points?

**Ms MacBride:** In terms of your first question in respect of the work of the Historical Enquiries Team and the historic investigations of the Police Ombudsman's Office, firstly we would like to affirm that the establishment of the Historical Enquiries Team was an important development in dealing with the past. We have to acknowledge that there is some community disquiet regarding the structure and the operation of that organisation but we do believe that it has shown that it has merit and that it has delivered for a number of families' information and, indeed, answers that they would not otherwise have had. We would broadly welcome the merger of the historic functions of the Ombudsman's Office with the HET but we see, more importantly, that the establishment of a Legacy Commission and the work that it would undertake in respect of investigation and information recovery provides an opportunity to review the operations, the costs and the effectiveness in terms of meeting the needs of families, whether those needs are expressed as investigation or information recovery. We also support the recommendation to remove that work from the supervision of the PSNI and to frame it within an internationally headed Commission, but we do not feel that this is simply about taking HET and the Ombudsman's investigations and giving them a new boss. This gives us the opportunity to look at international best practice in respect of dealing with historic cases to ensure that the processes are victim-centred, that they are delivering for the needs of individuals. It also gives us the opportunity where

HET has focused, because of the constraints of personnel and finances, on deaths as a result of the conflict to see whether those who have been injured can also have their concerns addressed, if there is a need there, if there is an aspiration there. It creates opportunities to address a number of needs. In terms of your second question I am going to ask my colleague to respond.

**Mr McAllister:** Chairman, reaching into my background in community relations work over the last 20 years, particularly mediating in conflict-related disputes, I would want to observe that Northern Ireland is not a post conflict society, we are a post political settlement society, a post Troubles society. The Troubles were an expression of our failure to manage profound disagreement. The profound disagreement still exists but unfortunately in the public mind people associate the word "reconciliation" with harmony and they believe they are being asked—especially people who are hurting with regard to the past—to love the people whom they still hold responsible, to take steps that they are not ready to take, that it is unfair to expect them to take. We need to deconstruct mythologies around the real meaning of reconciliation and enable people to see that what we are talking about actually starts with the management of enmity that is real and still exists. We also need obviously to see the broader endeavour towards sustaining peace carried on through the primacy of politics and the successful development of law and order—the economic development and improving the social conditions of communities. Our work, therefore, as a society has no end to it, it is cross-generational. If you are asking specifically what can be done to promote reconciliation now one thing would be to begin to set out into the public mind a more nuanced understanding of the incremental nature of how reconciliation in a divided society really works.

**Q91 Chairman:** Thank you both for the calmness and clarity of your answers; thank you for the commitment that you both obviously have and we are very grateful to you. We may want to follow up on some of these points and, equally, you may wish to follow up by sending us supplementary notes and we would be glad to receive those. Could I again thank you for coming and wish you a safe journey back. I will just come for a very quick word with you while the other witnesses take the table and, of course, if you wish to stay and listen to the other witnesses you are most welcome to do so.

**Ms MacBride:** Thank you very much.

*Witnesses:* **Mr Chris Albiston** and **Mr Raymond White**, Northern Ireland Retired Police Officers' Association, gave evidence.

**Q92 Chairman:** Mr Albiston and Mr White, could I thank you both for coming and welcome you. As you know, we are going to report to Parliament on the Eames-Bradley Consultative Group Report and we thought it only right to give you the opportunity to share some of your thoughts and views with us. You will have heard most of the previous session and

we will of course give you the chance, as we gave the others, the opportunity of sending in any supplementary evidence. We are slightly constrained on time because there are going to be a series of votes in the House of Commons at four o'clock and our practice means that I have to suspend the Committee at that point; I do not want you hanging around so

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29 April 2009 Mr Chris Albiston and Mr Raymond White

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we will finish our questions when the division bells go, which will be at four o'clock or a moment or so after or even before that. Would you like to say a word by way of introduction on your initial reaction to the report? There are two of you here but do you, in effect, speak with one voice, does your association have a collective view or are there differences between you?

**Mr White:** We speak with one voice; we have not fallen out as yet on this issue. Thank you for the opportunity to address the Committee. Mr Albiston and I both serve on a small sub group within the Northern Ireland Retired Police Officers' Association, an association representing some 3000 plus retired police officers. Our written submission obviously you have before the Committee and you will see that we have confined our comments to speak on issues relative to the Legacy Commission and the residual issues regarding legal processes surrounding that. We have left the care and welfare issues and recognition of victim and survivor issues to our sister organisation, the RUC George Cross Foundation, and I understand they have made a submission as well. Could I say at the outset, Chairman, our recognition for Lord Eames and Mr Bradley in relation to the work that the Consultative Group on the Past has produced. It was an enormous task that they had and every time we met with them we were met with the utmost courtesy and they listened to us and we are extremely appreciative of the work and effort that they have done.

**Lady Hermon:** That is very nice.

**Q93 Chairman:** Thank you for saying that.

**Mr White:** The Committee will note also that we make our comments primarily in defence of the interests of our retired membership, so we can be somewhat selfish in terms of making our remarks and our comments. We are some 10 years now into the Belfast or Good Friday Agreement and we have available to us, obviously, the cumulative effects of all the retrospective investigations and inquiries that have gone on to date, so it is within that framework that our comments have been made in the submission given, and my colleague Mr Albiston will lead in that respect.

**Q94 Chairman:** Thank you very much indeed. As you focus very much on the Legacy Commission would you like to put on the record—because this is going to be a published record as you will appreciate—your thoughts on the Legacy Commission: whether it is a good idea, if it is a good idea how it is best executed, comment on timing and so on, and then I will bring in my colleagues to follow up.

**Mr Albiston:** Thank you, Chairman. To simplify issues we were present earlier and we heard the comments on cherry picking, and we accept it is open to honourable members to cherry-pick, but on a broad base we say that we do not accept the proposals of the Eames-Bradley Report in relation to the Legacy Commission and there are a number of reasons for this which we have attempted to set out in our brief submission to this Committee. To

summarise those objections, firstly we are concerned about the nature of the proposals for the Legacy Commission in respect of the remit to investigate matters in the past. Our members—that is retired members of the police in Northern Ireland—have been involved in a number of attempts to re-investigate the past, either through the re-opening of old investigations by the Police Service of Northern Ireland or through the Historical Enquiries Team or through some of the other investigations which have taken place and of course with public inquiries, three of which are still ongoing in Northern Ireland and in which our members are participating. Our view collectively is that there is an agenda operating within many of these inquiries, the purpose of which is to question at best or to denigrate at worst the work which our members undertook whilst they were serving police officers, and that these inquiries and these mechanisms are in fact vehicles for this form of unfair criticism. Our concern about the Legacy Commission is that with inquiries such as the Stevens Inquiry and so on failing to meet the test which the Director of Public Prosecutions has set for prosecuting people for criminal offences, this does not satisfy the political agenda and that this Legacy Commission may be used as a vehicle for achieving the same objective, criticising retired police officers but doing so by using a lower threshold of evidence. That would be one of our principal concerns, when we look at, for example, the mechanisms involving secret courts, different approaches to evidence, the requirement on people to attend and produce documents. We do not see any likelihood of criminals, gangsters, terrorists, paramilitaries, whatever term you like to give, attending with documents to articulate their position and their mechanisms in the past. We see these machines as being purely directed against retired police officers and, therefore, we feel that the Legacy Commission proposals as set out in the present document will act against the interests of our members.

**Q95 Chairman:** You feel bruised and feel that you will be further bruised by the establishment of such a body?

**Mr Albiston:** There are many people who feel exactly that, yes.

**Q96 Chairman:** What about the continuation of the status quo; you would be comfortable if HET remained and the Ombudsman's investigative powers and historical section remained; you would be happy with that would you?

**Mr Albiston:** We could articulate some detailed views on the precise way in which we think enquiries should be undertaken, but in principle, as I think honourable members would expect of retired police officers, we believe that allegations of crime should be investigated by the police. We believe that there may be a tension between the interests of justice with a capital J and the practicalities of politics and moving forward, and we recognise that; we believe that that is one of the difficult areas into which the Eames-Bradley group ran. We are not sure that they have taken the right path out of that difficulty; we do

not claim to have a monopoly of wisdom in that, but as police officers we believe that if crimes took place, which they did, then police officers are the people to investigate those crimes.

**Q97 Chairman:** You heard the evidence given a few minutes ago by the commissioners. Have you actually had the opportunity as an association to talk to the commissioners and, if you have not, would you welcome such an opportunity?

**Mr Albiston:** I am not aware that any discussions have taken place but both of us certainly know one of the previous witnesses fairly well and have spoken to him fairly regularly over the years. I would say that it would not be right to say that our organisation has spoken, as an organisation, to Mr McAllister's organisation.

**Q98 Chairman:** Would you like the opportunity to do so?

**Mr Albiston:** I am sure we would welcome that opportunity.

**Q99 Chairman:** Because if we are going to bring people together there has to be, as I see it, a series of dialogues, and that is one obvious one that perhaps we could help initiate. You would welcome that?

**Mr White:** We are certainly as an organisation open for dialogue. We hear the warm and embrative sentiments that are expressed in relation to HET and the investigation of old offences, but we struggle to find as it were evidence of what actually has been achieved short of some comfort being brought to some families in relation to personal questions that they might have to ask. When our membership looks to see, and as the Eames-Bradley Report points out, 60% of the deaths due to the conflict that occurred in the Province were carried out by Republican organisations, 30% by Loyalists and 10% by Her Majesty's Forces, of which less than 2% are laid at the door of the police service. When we look to see the work that the HET has done at this moment in time in relation to making people amenable to the courts for old offences, I find it very hard to find any cases that are actually being run at this moment in time. Certainly HET will point to one case and that is the 2001 case that actually sits outside its normal remit which refers to the date in April 1998 which was supposed to be its investigative period. They point to that as an illustration of some work being done in that area, but I heard one of the Victims Commissioners make mention of the fact that they would wish to see the remit of HET expanded; we would ask in actual fact that the recommendation that this Committee made some time back, that the Northern Ireland Office conduct a review—which it has very neatly sidestepped on such times as Eames-Bradley reported—that that now as it were be put into place and that we have for the first time something that we can use to illustrate to our members what we call the cost benefit analysis of being involved with HET. We are finding that it has a cost to our membership that does not appear to manifest itself in any output from HET.

**Q100 Chairman:** You would like this Committee to pick up where we left off in that previous report which we deliberately did leave off because of Eames-Bradley and not wishing to prevent that, but you would now like us to go back there—

**Mr White:** We would welcome that because, like yourselves and a lot of other people, expected within Eames-Bradley a fairly detailed analysis of the work that was actually ongoing and why it was that HET would experience considerable difficulties in making people amenable to the courts. There is a very brief reference to evidence issues and things of that nature, but as you, Chairman, will appreciate it starts with the very nature of murder itself in relation to a terrorist act. It is not comparable to a domestic murder.

**Q101 Chairman:** No.

**Mr White:** There are major distinctions. It flows right through not only the investigative process but into the decisions of the CPS in terms of do we prosecute, is it now in the public interest, is there an abuse of process here? That flows over into the courts process as well, so the older the cases get there are very real difficulties of investigation, but when you map onto that the signals the government has already set out in terms of the early release of prisoners as part of the Good Friday Agreement; when you map on to it the Sentence Review Commissioners' remit in the sense that no matter how heinous the offence, no matter what the judiciary says about it, two years is all that you are going to spend in custody, the big question in our mind is what constitutes justice out of a system that has that amount of what you call political interference in it? This is where we would like the Committee's past recommendation in respect of HET to be picked up on, so that we have an in depth, very definitive and independent analysis of what actually is set out to be achieved and how realistic is that, because the people of Northern Ireland want that.

**Chairman:** We note your challenge and we shall obviously reflect on that. Could I bring in Dr McDonnell?

**Q102 Dr McDonnell:** Thank you very much, Chairman. I just wanted to touch base if I might on some of the recognition payments. How do you feel about those or were you happy that the Secretary of State removed those?

**Mr White:** The feelings of our membership certainly reflected a lot of what was said in the press in that people found it extremely difficult to come to terms with a payment to an individual's family who had deliberately set out to kill another individual, who had watched that individual's funeral as it were have all the paramilitary trappings, have all his hooded associates alongside his coffin, be they as it were Loyalist or Republican and then be asked to accept that the payment that they were going to receive was reflective in the same pain and suffering as the family of the deceased paramilitary. They just found it extremely hard to come to terms with and that is

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where basically we stand on it. We did not see the payment as it were as being something that was acceptable in that as it were definition of victim.

**Q103 Dr McDonnell:** Others may wish to pick up on that, but there is a second point I want to make quickly. I feel very strongly myself about the mental health support that victims received and I am sure that many of your members were in the category of being not just traumatised physically but traumatised mentally and scarred mentally. In your opinion and the opinion of your organisation did the health service pick that up, do they get adequate support in terms of mental health support in terms of dealing with the scars that they live with?

**Mr White:** We were very fortunate in respect of the Patten Agreement; it recognised the heavy psychological impact that the four decades of the Troubles had on our membership and as a consequence of that the PRRT was established at Maryfield. They have 10 psychologists in employment, seven of which as it were are looking after the interests of serving and retired police officers. Some 250 new cases are still presenting themselves on an annual basis to those people, so you can estimate for yourself the numbers of ongoing new cases—that is not people who have been treated and put back into care of the national health service, this is 250 new presentations each year in respect of their services. Certainly we were very grateful as an organisation that that recognition was there. The military side, dealing with officers coming back from Iraq and Afghanistan, have been looking to see what sort of services are in place and how effective they have been and I understand, Chairman, you may be visiting at some stage with PRRT.

**Chairman:** Indeed.

**Q104 Dr McDonnell:** Is that service open beyond former members of the RUC? Is it open to the families of former members and is it reasonably accessible to the wider community?

**Mr White:** The only people who are excluded as far as we understand—and I would not hold myself out to be an expert on it—are part-time members of the RUC Reserve seen to be outside the framework as it is at the moment, but serving officers, retired officers and the immediate families of retired officers are eligible for treatment within the psychological service.

**Q105 Chairman:** This is perhaps a good point to ask you one question before handing over to Lady Hermon. This Committee has often made the point that victims are not just the bereaved; many people suffered during the Troubles who did not lose a loved one but perhaps had one mutilated, all sorts of terrible things happened within families. I was heartened that the Victims Commissioners made reference to that this afternoon; would you go along with that wider definition?

**Mr Albiston:** We have been very fortunate, Chairman, as my colleague Mr White has said in the facilities which have been available to us,

particularly in the last 10 years. It will be for the Committee to see when they visit PRRT and not for me to speak from any position of expertise, but it would be fair to say that they have seen a large number of clients and they have been able to adopt a fairly generous and broad brush approach within the limits of the legislation which, as Mr White said, excluded the part-time reserve. What you will find when you speak to them is a generosity of spirit, perhaps not of resource because resource is always limited, but an expertise has been developed there and there is almost certainly from my contact with them a willingness to share that expertise with other organisations. In much the same way as Belfast developed a reputation for dealing with traumatic injury I think now the PRRT is developing a reputation for dealing with these post-traumatic injuries.

**Chairman:** I take that to be a yes to my question about the wider nature of victims, the wider nature of the definition. Lady Hermon.

**Q106 Lady Hermon:** Just staying with the PRRT for a moment could I just ask you to comment on whether in fact you were surprised in fact or disappointed that the Consultative Group on the Past did not seem to mention the PRRT at any stage or even the health care problems of retired police officers. Did that omission surprise you?

**Mr White:** It did not really mention the police service at all in any great comment. Certainly the work of PRRT would have been brought to the attention of the Eames-Bradley group and they would have been made fully aware of that. Certainly it was just one of the issues that we noted in relation to the report, that we had not had much in the way of a mention. We would not wish to see it interpreted that somehow or other all our needs were met and therefore we were outwith any recommendations that they were making.

**Mr Albiston:** There was a Freudian slip in the drafting, if I may apologise in advance, where paragraph 14 of our submission suggests that the silence in the Eames-Bradley Report was not intended as a slight and an “e” has appeared in the word -sleight—which is not consistent with the Oxford Dictionary’s interpretation of the two words. I do not think this was meant to be a sleight of hand, nor do I think it was meant to be an insult to the PRRT or to the RUC or to ex-members. What we hope it is not is an indication of any thinking in official circles that the police have got enough, we can forget about them and concentrate on other people. We welcome the attention which the report gives to the needs of ex-members of Her Majesty’s Forces, for example, and we see this as being additional to the provision which has already been made. We do not expect it to be considered to be a substitute for or instead of the existing provision,

**Q107 Lady Hermon:** Just following on a little bit from that could we just come back to the Legacy Commission? Could you describe to the Committee please what you would expect to be the impact on retired police officers and perhaps say a little bit

about the impact that HET has already had, the Police Ombudsman's investigations have already had and that other inquiries have already had on the psychological welfare of retired police officers and indeed the morale of retired police officers.

**Mr White:** This is certainly one of the key concerns that I mentioned at the beginning to Sir Patrick. As I said, 250 new cases present themselves each year to PRRT. PRRT will tell us that a proportion of those are triggered by requests from the Police Ombudsman's Office, from public inquiries and from requests from HET to assist with old investigations. If you can imagine your average detective serves maybe for 20 years in the CID going from detective constable to perhaps detective superintendent. Attending six murders a year—which would not be a big number of murders—that is 120 murders potentially that he or she could be required to assist HET with in terms of its review. Even if they only revisit 50% of those it is still a considerable number. It is not a paper exercise as far as our members are concerned; it takes them back to dark corners of their past that they do not wish to visit again. It may have been 20 years ago and they have come to some degree to terms with it, but if you spend two or three hours on a reinvestigation and you are walking through inquest photographs and investigative processes, that is real live time memory recall as far as those officers are concerned.

**Q108 Lady Hermon:** Yes.

**Mr White:** And they are asking for what benefit and for what purpose. They are not seeing prosecutions being pursued or people being brought before the courts, but there is this psychological damage trail that is now beginning to emerge through the figures of the PRRT. I have no doubt that the Chairman of the Committee will follow up on that and knows a much better place for that, but it is a balancing effect and it is the intrusion. The other side is that we have now 10 years of retrospective investigation, from public inquiries to controversial inquests, to HET inquiries, the Police Ombudsman inquiries and a disproportionately small number of our officers who either served in Special Branch or served in CID are now almost on call, as it were, as unpaid public servants to be at the beck and call of whoever wishes to revisit the past. This is our fear, that in respect of the Legacy Commission this is yet another imposition. I can only use myself as an example. I am approaching seven years now into retirement; I have not had a year in retirement that I have not had a letter arriving either from a public inquiry or the Police Ombudsman's Office in relation to, as it were, "Can you assist? Or we wish to interview you." It is not just a matter, Chairman, of an hour. At least six weeks out of my life was taken away in relation to the Rosemary Nelson inquiry, between attending to make statements, receiving documentation, meeting with my own legal advisers, making further statements and then attending the hearing itself. That is now due to be repeated for me in relation to the Hamill inquiry. I am only a small representative example—I probably do not even represent in respect of what the CID officer might be required to

go through. It is this intrusion on us in an Article 8 sense into our privacy: when do retired police officers actually get retired in the same fashion as other members of the public?

**Q109 Chairman:** Would you like there to be an age at which a police officer cannot be summoned to give evidence?

**Mr White:** You are arriving at that age with some of us now, where early Alzheimer's is setting in!

**Q110 Chairman:** No, it is a serious question: do you think there ought to be an age after which a retired police officer cannot be obliged to give evidence? Do you think that would be a realistic approach?

**Mr Albiston:** Our position is that if there is a suggestion that a police officer has been involved in criminal conduct whilst he was a police officer there should be no hiding place for that person and that any body which is legitimately charged with investigating crime should be able to deal with that retired police officer in the same way that they can deal with any other suspect for a criminal offence. I am absolutely and unequivocal on that—and no age limit, no medical excuses, nothing. But if you are taking retired police officers and asking them to help you by explaining procedures that they may have been involved in 15 years ago and you are taking up their time—and it is not just Article 6 about the fair trial and Article 8 about the right to privacy, what about Article 4 of the European Convention which prohibits forced labour? This man was taken away for six weeks and I am aware of the cancelled holidays and all the rest of it and I think this is an abuse of the powers that have been given to public inquiries and other bodies, and we very much fear that the same thing will happen with the Legacy Commission. We are particularly concerned—we put it in our submission but we have not mentioned it today and I do not know whether honourable Members are going to come to this—the proposals for the Legacy Commission make no reference to any form of appeal mechanism, accountability or control. We went through and we are still going through a horrific experience at the hands of the Police Ombudsman's Office partly because, completely contrary to the clear provisions of Article 13 of the European Convention, when the Government established the Ombudsman's Office no mechanism was put in place for anybody to challenge the conduct of the Police Ombudsman's Office for their handling under the Office. There is a mechanism for addressing issues of maladministration, which is common with other parts of the Ombudsman structure in the UK, but the Ombudsman's Office has police powers; it has powers to arrest, search, detain, interrogate and recommend for prosecution. Any other body in the UK which has those powers would have a complaints system. There is no complaints system for the Ombudsman's Office; and we fear that the same thing might happen with the Legacy Commission.

**Q111 Stephen Pound:** On that point, Chairman—and I am very grateful, you have certainly fleshed out the statement you made in your written submission when you talked about retired police officers being dragged from their well earned retirement—you paint a nightmare picture here where if someone was getting confused with age, which does happen to us, and they give a statement which contradicts an earlier statement then that would then open up an entirely new range of inquiry which would then have knock-on effects in other ones. I think we need to get that on the record. What I want to ask you is about the sheer practicalities of it. You are formerly Metropolitan Police and the only one of these that I have ever been involved in involved the MPS and we found that all the retired officers live in either Spain or Florida—none of them were living in Southall. The fact remains that they were out of the country, they were not subject to subpoena and a number of them actually returned to give evidence at their own expense. How does the mechanism work? Is this a voluntary process? Are you subpoenaed, are you summoned, and how does it actually work in practical terms?

**Mr White:** If it is the Ombudsman's Office then I can either be a witness or a suspect, so I can be interviewed under PACE as a voluntary attendee, in which case I get legal assistance in that respect. If I am attending in respect of a public inquiry the only aspect on which I am paid, as it were, mileage allowance is in respect of my attendance to make a statement to one of the inquiry solicitors. All other contact that I have with my own solicitor in the collecting of papers and discussing issues with him are all paid at my expense. My time, as I say, when I add it all up in terms of reading all the papers that have been served on me, in terms of correcting statements that have been drafted and given back to me and in terms of all the work you normally do in terms of appearances is unpaid; it is borne by myself; it is complained of by my wife to a great extent in terms of the time loss. And in respect of the Nelson inquiry I was listed for appearance on no less than four occasions, starting in March, put back to May, put back to September and I finally appeared in December. So my entire year was lost to myself in terms of, "When am I going to appear?" The same thing now has happened in respect of Hamill—I am into my third adjournment and I do not know when the next one will be. So this is the mechanism; we are treated, as it were, as some sort of public object that is still tied somehow or other to the force.

**Q112 Chairman:** In the context of today's session you are fearful that the establishment of a Legacy Commission would compound those problems?

**Mr White:** Exactly because it has compellability powers which no doubt will be backed up by a High Court subpoena if we did not appear.

**Mr Albiston:** Absolutely, and to complete the answer to your question about age limits, Chairman, I spoke about retired officers who are suspected of criminal offences. If we go on to talk about retired officers of whom it is believed they may be able to assist with various types of inquiry our submission would be

that that should be on a purely voluntary basis. We think—and from reading the letters columns in newspapers and listening to the television debates with the *vox populi* and so on—that there is a perception that retired police officers are under some sort of moral obligation to give of their time because they have agreeable pensions and this sort of thing. I think it would be right to put on the record that all police pensions have been paid for through 11% contribution during the service of the police officer.

**Q113 Stephen Pound:** Not disputed.

**Mr Albiston:** But that is not to say that retired police officers such as Mr White and myself would be therefore, *ipso facto*, unwilling to give of our time; we would not. There are many occasions on which we would be quite willing to give up our time and we have both been at public inquiries and given what we believe to be help to those inquiries.

**Q114 Chairman:** You have made this point with graphic clarity but we have this report before us from Eames-Bradley and you yourselves have generously paid tribute to the courtesy with which you were treated and we would certainly concur with that; we believe that the conduct of Eames-Bradley was impeccable—that is not to say that we are going to agree with the report, but the conduct fine. The Legacy Commission, the central recommendations now that the Secretary of State has said he is not going to move forward with the payments, you do not want the Legacy Commission, so what is your alternative? Maintenance of the current situation, the creation of some other body, the ending of all such inquiries? What is your solution? We want to have that on the record so that we can consider what you would like when we come to decide what we wish to recommend.

**Mr White:** Certainly our view, Chairman, is that going down what you would call the legalistic investigative path of inquiries and certainly of using what you would call criminal investigation as a mechanism for finding the broad issues of truth and things that are being sought, is running out of time in terms of what can be achieved in that respect. I think before anything moves forward we need to have an appraisal of what actually is in place at this moment in time because the feeling coming out of Eames-Bradley is that there is yet another layer of bureaucracy put upon the work of organisations that are actually in place and have been doing good work. So if we had some sort of capacity to stop, to take a good, honest and hard assessment of where we are going in relation to this, and answer some of the harder political questions. Is it really a political objective? As I said before, we hear the words that, yes, all people should be made amenable—murder is murder and therefore you should appear before the courts. But other political signals have been put out which more or less puts terrorist murder into a slightly different category than domestic murder, if I can use those words? Then let us unpick those things and let us tell the people exactly what the real difficulties will be if you are going to go down the investigative path where time is running out in terms

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of it, where the difficulties are as regards evidence, where the difficulties are in relation to actually framing, as it were, a prosecution case and where abuse processes and things might ultimately result in a rejection. If you want to academically find out then what are the broader issues—why did terrorism occur and what issues arise in relation to the use of informants and things of that nature—then they can be addressed in a more academic sense rather than, as it were, all this business of compellability and quasi-legalistic, as my colleague has said, Star Chamber type approach to trying to find out the past. Perhaps as somebody has said, we are running out of time in terms of the justice process but we are still too close to events in terms of the truth process, and we are somewhere in between that and I think we need to stop and take a collective long breath and see what is working and fund those issues, and then if there are residual issues that the community at large feels it needs to be addressed then certainly look for softer mechanisms to try and tease out those issues. I do not personally feel a lot of issues can be resolved in the fashion that the Legacy Commission has been thought of and resulting in.

**Mr Albiston:** Perhaps I can add to that. There was an answer given by a previous witness, Ms MacBride, in relation to a completely different question, which seemed to me to be absolutely pertinent and spot-on. When Ms MacBride was asked whether she thought that the issue of payments had increased tensions in Northern Ireland, to paraphrase her reply I think she said something like the tensions are there and this produced a focus for those tensions. I think one of the things we would be concerned with is whatever comes out of the Eames-Bradley Report carries with it the potential for producing a focus for existing tensions and that is why it needs such careful handling.

**Q115 Kate Hoey:** Chairman, just a quick point to get it on record. We have talked earlier about sometimes when the law in Northern Ireland is very different in terms of appeals and the Ombudsman and so on, would you like to see a re-definition of the word “victim” in legal terms? When I listen now I wonder that we all passed it. Did anyone at the time ever raise this point about the fact that a victim is a victim and the definition now has led to all these problems that it did in Northern Ireland. Would you like to see it re-defined?

**Mr Albiston:** I think the short answer, through the Chairman, is that we did not make a submission when the legislation was being passed. I do not know what our submission would have been had we made it.

**Q116 Kate Hoey:** I just wondered because it seemed like it is one of these things now that at the time—and maybe I need to go back and read my *Hansard*—whether anyone ever actually questioned what now seems amazing, that we agreed such a definition. I have just been told that it was an un-amendable Order in Council.

**Chairman:** There we are; and at that moment I am obliged by the practice of the House of Commons to suspend this sitting. I will declare it at an end because there will be more than one vote. Gentlemen, thank you very much indeed for coming and thank you for your clear and helpful evidence, which we shall certainly take carefully into account. It may well be that we would want to write to you for a little bit more and it may well be that you want to send us a bit more because on the way back you may think, “I wish we had told them that.” Please feel free to do so. Thank you very much indeed and safe journey back. The session is closed.



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**Wednesday 24 June 2009**

Members present:

Sir Patrick Cormack, in the Chair

Christopher Fraser  
Mr Stephen Hepburn  
Lady Hermon

Kate Hoey  
Mr Denis Murphy  
Stephen Pound

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*Witnesses:* **Rt Hon Shaun Woodward MP**, Secretary of State for Northern Ireland, **Ms Katie Pettifer**, Deputy Director, Rights, Election and Legacy Division, and **Mr Nick Perry**, Director General, Criminal Justice and Policing, gave evidence.

**Q117 Chairman:** Secretary of State, could I welcome you most warmly, and could I welcome both of your officials, Nick Perry and Katie Pettifer. We are glad to have you here. We have discussed this session and we are trying to accomplish our questions within the hour (I know you have other appointments) and then the Committee will have ten minutes to a quarter of an hour with you privately to discuss one or two other matters. The substance of the questions from the Committee this afternoon is the Eames/Bradley report on the Consultative Group on the Past. Have you anything you would like to say by way of opening submission before I ask the first question?

**Mr Woodward:** I would, with your permission. I am very happy to have my two colleagues, Sir Patrick, and I would like to thank the Committee this afternoon for asking us to appear before you. I thought it might just be helpful to say one or two things at the beginning, Sir Patrick, about the work that we are doing in relation to the report. I think it is absolutely right for me to send out my thanks, at the very beginning, to Lord Eames and Denis Bradley, and their colleagues, for the work that they did. It was an enormous undertaking; it took a considerable amount of time; they gathered many views and, as we know, they emerged with 31 recommendations. Without wishing to rehearse the history of the launch of the document, I think it is probably just worth saying at the beginning there was one recommendation which dominated all the discussion and, whether or not that was the consequence of the way the document was launched or the interest it provoked, what I think there is no debate about is that one recommendation became the focus of everybody's attention. As you know, I made very clear very shortly afterwards that I thought it would be helpful to provide some clarification by the Government that said that we were not minded to accept this proposal (and I am very happy to take questions from the Committee this afternoon on that) because we fundamentally felt that it was very important that we stimulated discussion of the other 30 recommendations, many of which, I think, are extremely good. So what we are doing today is launching a new consultation on Eames/Bradley. What we want to stimulate across the next few months, until the beginning of October, is a debate, and what we want the political parties to do in Northern Ireland is to accept the responsibility as well as anybody else in Northern Ireland of

actually having that debate about the recommendations, because what we do not know, in truth, is where there is a consensus on some of these recommendations, which is why, in some sense, we have devised a rather simplistic response form which does ask people to tick a box that says: "Yes/No/Other", because, in one way, we would like to establish those things about which there is a clear consensus. There may be only one or two of the recommendations, there may be many of the recommendations—we do not know. Secondly, we do want people to give us very detailed answers under the box called "Other". It can be as long as people want, but what matters is that people actually set out their views supported by facts. I say this, really, with two things in mind: the first is that I remain confident that we will, in the coming months, be able to see the Assembly and the Executive, perhaps, reach agreement on stage 2 devolution. If they are able to do that, in the months ahead we will, hopefully, see the votes take place in Stormont and here, at Westminster, for the transfer of powers. If that happens the issues relating to the past will remain to be dealt with, and one of the things I am very conscious of, Sir Patrick, is that this cannot be an imposed, top-down set of solutions to the people in Northern Ireland; if we are to learn anything it must be that there is a consensus in Northern Ireland and that this must be owned by the people in Northern Ireland and it must be guided and led by the co-operation with the institutions created by the peace process and the political process. So I see it as absolutely fundamental that in reaching conclusions on the proposals in the Consultative Group on the Past work that we have a genuine consultation, that the political parties take up their responsibility of responding to this document, and that we also, therefore, have time to take on board the deliberations and work of this Committee. I know that the work that you are doing in this Committee is going to be an invaluable part of that process. So it is my intention in the autumn of this year to bring together the work of the Consultation, the work of this Committee as well as, I hope, the consequence of a letter I am writing today to the Chief Constable which will be asking him to look at the possibility of conducting a short, interim review of the work of the HET so that we are actually able to study the efficiency of the HET, the problems that there may be—or may not be—with a mind, therefore, to being able to bring all of these things together in the

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autumn of this year before the Government, either at the very end of this calendar year or at the very beginning of next year, will publish its official, full response to the Consultative Group on the Past work.

**Q118 Chairman:** Thank you very much indeed for that. Could I begin by saying that although there may be differences of opinion among the Committee on aspects of the Eames/Bradley report, the Committee is united in admiring the enormous amount of work that was put in by Lord Eames and Mr Bradley and their colleagues, and does not, for a minute, question their impartiality and integrity; it is a question of looking now to see what aspects of the report can and should be implemented with the one aim in mind that matters to us all, which is to improve the situation in Northern Ireland. I do not want us to get bogged down this afternoon on the controversial recommendation, which you have effectively parked to one side. You do mention it in your consultation paper because you want to find out what people think about it, but we all know that it would be utterly impractical for any Secretary of State to attempt to implement that unless there was a broad degree of agreement right across the province. Could I ask you one question on that: does your opinion, as you have implied today, remain the same as it did when you first gave a comment on this?

**Mr Woodward:** My opinion does remain the same, but I think it is important to put two points on to the record. The first is that in reaching this recommendation (and in subsequent discussions I have had with the Consultative Group), I am very firmly of the view that this was not an idea promulgated only by the group; nor, indeed, was this an idea solely from one section of the community in Northern Ireland. I believe, therefore, it is important, as we live in a democracy, that, despite the views that I have expressed about what I am minded to do, which clearly reflects the Government's position, nonetheless, we allow, however much of a minority voice it may be amongst some parts of Northern Ireland, people to put forward their arguments for and against this proposal. So I am entertaining, and I would like to have, very strong cogently argued arguments for and against this proposal; not because I have changed my position but because I genuinely believe Eames and Bradley reflected proposals they have heard. I think, in good faith, they reflected them in their report, but perhaps they took them a little too far into formulating them into a permanent recommendation.

**Q119 Chairman:** Thank you very much. I am sure the Committee will have strong views on this particular proposal, and when we have made our report, which you have made quite plain you will take into account before the Government finally comes to any conclusion, we will certainly make our views known. It is too early for me to say whether those will be the unanimous views of the Committee; I suspect they probably will be, but we will see when we come to deliberate. Could you just, before I bring

colleagues in to talk about the Legacy Commission, and so on, very briefly, tell the Committee what consultations you have had up to now, and with whom, in the preparation of the document that you publish today?

**Mr Woodward:** They have been informal conversations; they have not been formal.

**Q120 Chairman:** Of course.

**Mr Woodward:** They have been with leaders of the political parties—again, informal and not formal.

**Q121 Chairman:** With all of the political parties?

**Mr Woodward:** I want to tell you yes, but I can immediately think, for example, I have not had a consultation with the Green Party, which I would regard as a significant political party in Northern Ireland and, therefore, in saying that, I do not want to suggest it has been comprehensive because, quite rightly, there will be small parties in Northern Ireland whose voice should rightly be heard. Hence, my saying it was an informal process.

**Q122 Chairman:** But DUP, Sinn Féin, SDLP, UUP, Alliance—

**Mr Woodward:** Informal consultations with those parties. Of course, my colleagues have done the same. What has been extremely important is to understand that the proposals put forward certainly reflect a degree of opinion but that I think I can already say it is not an established set of opinions. Therefore, part of the work ahead, whether the Legacy Commission were to be established or not, would actually be marshalling opinion towards something which I think is a very important component part, Sir Patrick, which is in Northern Ireland we have established a very successful peace process and a very successful political process. In the establishment of those, as moments of their development have occurred, sometimes road blocks have been hit, and the response has been to deal with them sometimes in a piecemeal way and sometimes in a coherent way—always, I think, a sensitive way. So, therefore, what we have in terms of a reconciliation process, which might be considered to be the third part of this work, has been arrived at in a slightly different way from a comprehensive peace process and a comprehensive political process. Therefore, part, perhaps, of what I may be hinting at this afternoon is also for those responding to the document to look at the idea, not necessarily in a big bang, perhaps staged, but the work that might be done by a Legacy Commission (or something similar) could be staged but it would be part of a reconciliation process that is comprehensive.

**Q123 Chairman:** I know my colleagues want to explore that in greater detail, but just establishing your conversations, could you just tell me briefly have you had informal consultations with the PSNI, have you had informal consultations with the Ombudsman and have you had informal consultations with the Government of the Republic?

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**Mr Woodward:** I have had informal consultations with everybody because it has been part of my discourse with them over the last few months to talk about the work of Eames and Bradley and, indeed, it had been part of my discourse with them in the months leading up to the publication of the report. As I think it is very important that I do not mislead the Committee into thinking there has been a comprehensive process of informal consultation, as might be being hinted at here, what there has been is enough conversation and consultation to indicate to me that we needed to launch a formal consultation process that would be comprehensive.

**Q124 Chairman:** A consultation process on a consultation group—it is all a bit sort of convoluted. Nevertheless, we understand why you are doing it. My final question to you, at this stage: is this document this morning, which we did not see until this morning—and have not had a chance, therefore, to peruse in detail—is this work something that you have discussed with any of these other parties, or is this exclusively and absolutely your own document?

**Mr Woodward:** It has been discussed as a proposition with some of the parties; it has certainly been discussed at length with Lord Eames and Denis Bradley, with whom I have had several meetings in the last few months, the most recent of which was a lengthy meeting on Saturday of last weekend.

**Q125 Chairman:** Fine. Up to now you have had no “formal” consultations (I use the word deliberately) with anyone.

**Mr Woodward:** No “formal” consultations, no, because that is the purpose of the document.

**Chairman:** Thank you very much indeed.

**Q126 Stephen Pound:** Secretary of State, I understand entirely why you are responding in a slightly elliptical way on some occasions, and I can understand the circumstances of it. With regard to the question about Ireland, one of the suggestions of the Group is that the Republic of Ireland be involved not just in funding but, also, in implementing some of the recommendations. Did you have discussions on either of those subjects?

**Mr Woodward:** No.

**Q127 Stephen Pound:** Would you intend to have discussion on either of those subjects?

**Mr Woodward:** I would very much intend to have it, because on the back of this documentation that we are launching today we would expect the Irish Government to play a full and active role in that consultation along with ourselves. That will form part of a series of exchanges which I would anticipate taking place through the summer months and through the autumn.

**Q128 Stephen Pound:** “We” being Her Majesty’s Government?

**Mr Woodward:** The British Government and the Irish Government, who very clearly have an interest in this matter.

**Q129 Stephen Pound:** I am sorry, sir; you said: “we feel that the Irish Government should have a part in”, so that is official British Government policy?

**Mr Woodward:** Official British Government policy is to be inclusive, and I do not wish to launch an exclusive exercise in which, at the very moment I am trying to achieve reconciliation, I am already setting out, at the beginning, that some people have a lesser status than others.

**Q130 Stephen Pound:** I am actually on your side here, Secretary of State. I just wanted to establish—

**Mr Woodward:** I am very cautious, Mr Pound, of the need in a forum like this about—and if one looks at the lesson of the launch of this document, one misunderstanding at the beginning, one over-attention to one recommendation actually led to the failure of this consultation exercise to succeed in being a proper debate. Therefore, if it is convoluted, Sir Patrick, I apologise but I do it having learnt the lessons of the launch of this document.

**Chairman:** Can I just, before bringing in Mr Hepburn, express the hope that you will learn another lesson this afternoon, which is that it would have been helpful, knowing that you were coming before us on this very subject, if we could have had this 48 hours ago, because none of us has had the opportunity to read it from cover to cover, which we would like to have done.

**Q131 Kate Hoey:** You have said yourself there that you had discussions on this with Lord Eames and Mr Bradley. I understood, when they came and gave evidence, that they said that was them finished; they had done their report. Are you saying now that they are still both heavily engaged in this and what happens next?

**Mr Woodward:** I am saying that I, first of all, gave them the courtesy of knowing what I intended to do with their work; that I believe that as well as being remunerated for the work they did they care with a passion about achieving—even if it were not to be in the form they set out—the end they desired, which is reconciliation in Northern Ireland. Unremunerated, I am absolutely confident that they will be ambassadors to the end of their lives on this earth for bringing about peace and reconciliation in Northern Ireland. Therefore, in whatever form this takes, I think they are rather useful people to have on board.

**Q132 Christopher Fraser:** Could I ask a supplementary to that, on the point of remuneration? I do not know about the rest of the Committee, I was not personally aware that was the case—that they were remunerated for the work—

**Mr Woodward:** That they were paid for the work they did when they were forming the report?

**Q133 Christopher Fraser:** Yes. Would it be possible, separate to this conversation, for you to furnish us with information of the costs?

**Mr Woodward:** I am very happy to write to the Committee with details of what they were paid.<sup>1</sup> I think the Committee will know that the consultation had to be publicly funded—

**Q134 Chairman:** Of course.

**Mr Woodward:** They put in huge amounts of time for the work, and, yes, of course, they were paid.

**Chairman:** Fine. I am sure nobody could conceivably object to that, but it is a relevant question.

**Q135 Mr Hepburn:** Just going to the core recommendation of the Legacy Commission, could you let the Committee know what your opinions are on that particular recommendation, and have the Government got the view that the recommendation should go forward in exactly the same sort of structure and functions as the Group actually recommended and outlined?

**Mr Woodward:** In answering the question, Mr Hepburn, the immediate difficulty is it is necessary for me, on the one hand, to suggest that I do want to have a consultation because I do not have a fixed view, but, therefore, in answering it, perhaps, I am doing two things: one is to give you an answer to your question of what I personally think, and, second, I may wish to be a little provocative and, also, to stimulate some kind of debate. It is my personal view—but, equally, I invite the views of everybody else—that what we may end up with is not something that is called the Legacy Commission. One should not immediately reach for thinking I am therefore proposing a truth and reconciliation commission either; I am simply identifying the fact that I do not necessarily see that it ends up being called “The Legacy Commission”. Secondly, I would beg the question as to why it might need an international chair and two other commissioners—whether or not that might be the appropriate structure. I do understand why some members of the community in Northern Ireland would feel very strongly about an international chair, so that this would be somebody who would be regarded, as it were, as not in some way carrying baggage from the past in relation to any particular community and, therefore, might be seen as being able to be more fair. On the other hand, it has always been my view that the best person should get the job based on their ability, not on anything else. So I think that is another area where there should be a sensible discussion about the kind of person it should be. I am equally concerned, for example, about a structure which could be very top-heavy in terms of international commissioners and major commissioners but might be rather light on a really good chief executive who might take on this work. I am also minded to say that I think that the Legacy Commission might be conceived in two parameters; the first is that the proposition in the brilliant work by Eames and Bradley was to conceive of a Legacy Commission that might last five years. One of the ideas I have is that, perhaps, this actually might be a

Legacy Commission (or whatever it could be) conceived not in any one time frame but, perhaps, two, which might include a second more comprehensive stage than the first, and that the first might be much lighter but might include terms of reference which would require an evaluation of all the institutions within Northern Ireland that are seeking to reconcile, work with, victims and survivors, with a view to evolving into a more comprehensive structure. Equally, I think it is very important, Stephen, to underline one thing: this cannot be top-down; this has to be something that is owned by people in Northern Ireland and wanted by people in Northern Ireland. It may require leadership and direction—I am not abrogating, at this point, the responsibility of people to say: “This might be difficult but we should try”—but I think, in all of this, we should remember that time is our friend and that too often in Northern Ireland it has been the problem of deadlines that sometimes has given more trouble than anything else. So I am trying to be sensitive to different feelings; I am trying to be sensitive to different communities, and I am trying, in answering your question, to just give a flavour of the way I would like people to approach the recommendations, which is not a simple “Yes/No” response; it is that but it is, also, to say: “If you have a better idea or a different way of approaching this, we want to hear that”.

**Q136 Lady Hermon:** I am delighted to see you here this afternoon, Secretary of State, and your colleagues. Can I come back, Secretary of State, to the second thing that you have announced this afternoon? I must say that, in fact, I was greatly taken aback by the publication today, at the very end of June. I take it this is a 12-week consultation that will overlap the summer holidays, and it does strike me that, in fact, perhaps an earlier consultation document would have been more helpful because I think a lot of people will be very surprised that this has taken the Northern Ireland Office such a long time to respond to what was a very important document. Setting that aside, can I come back to your comment about HET? Let me just check that I have understood this. You will ask the Chief Constable, Hugh Orde, to undertake a review of HET and that is to be completed by the autumn. Is that because you have concerns about the efficiency of HET, or is it because, in fact, there is now, in your head or in the Northern Ireland Office somewhere, a deadline that, come the autumn, there will be something like a Legacy Commission—but, maybe, not that term—which will take over the work of HET? Where does HET stand? How will the people in HET respond today when they know that, in fact, their jobs are being reviewed?

**Mr Woodward:** I think there are two or three questions contained within that. The first is just a minor correction, which is that it is not 12 weeks but 14 weeks. I realise that the Assembly may be rising in a week or so's time but, certainly, this House will continue to work until the end of July. I think, however difficult it is, most people would assume that Members would take three or four weeks,

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perhaps, away in the summer and not 14 weeks, and, therefore, perhaps, it is not too onerous, particularly in the current political environment, to suggest that 14 weeks is not too demanding for people to give a response, although I do accept that if somebody were to write to me and say: "An extra four weeks would make all the difference", we are not going to be so small-minded that we would not accept responses after that time. I am trying to give a little bit of guidance here. Secondly, in relation to the launch of this, I have partly tried to do it with respect to this Committee, which is to recognise that we actually look for a date when it would be possible to come, and there were a series of events which arose which is why we arrived at this date, and I wanted to use this Committee as an opportunity to launch this report. Thirdly, I think I could have been quite heavily criticised for, of course, launching a document during purdah, which of course did take place until the time of the European elections. Fourthly, Lady Hermon (and you, as much as anybody on this Committee, I know, is as sensitive to this issue as anybody else), we might have launched earlier had it not been for the terrible events at the Massereene Barracks, which, I am afraid, both for myself and my colleagues, for the PSNI and everybody else, pretty much occupied us for the four to six weeks immediately after that took place. Immediately after that was Easter and then we were into purdah. So, I am afraid, I think there is a good explanation and it is one which I have tried to do whilst respecting the courtesies which I think should be given to this Committee, which has shown such a strong interest in the report. In relation to the HET work, may I simply say this: I think the HET work is some of the most outstanding work that has been carried out by the PSNI. If we think of the more than 3,000 people who lost loved ones in the course of the troubles, for those people to have been able, through a chronological system, to have been given the most basic information which, in many cases, some of them have been denied—for the parents of a soldier murdered in the 1970s who did not even know that, when he was murdered on the streets of Belfast, in the last hours of his life he was cradled by two passers-by who happened to be Catholic, but they had nursed hatred against Catholics because they thought Catholics could not care about their Protestant son—I know you, as much as anybody in this room, would care deeply about those things, may I simply say the HET's work has been exemplary. Therefore, one of the things that I felt in launching the consultation was that simply, as it were, to follow a recommendation which, effectively, was simply going to dismantle the current operation and move it, without, effectively, giving the HET, whose work I think, and I say again, is exemplary, in the political peace process and the new PSNI work, would be totally unfair to them. So I am not asking them to launch a defence of their work, and knowing that the Chief Constable is a rather forthright man who will deliver in a pretty no-nonsense way, I think, a quite short review, to invite him to give me his sense of the work of the HET, as well as inviting the HET to respond is not to give them a greater bureaucracy,

it is not to unduly delay them but it is to make sure that they have a proper chance to represent their work—which, as I say, I think is exemplary.

**Chairman:** I think we would all agree with you on that latter point. We have visited and we were very impressed. Just one other point I must make at this stage, following Lady Hermon's question: this Committee hopes to deliver its report, too, during the month of October. It depends on various factors whether it will be the first half or the second half, but we hope to get it to you during the month of October. Lady Hermon, did you wish to follow up at all on that?

**Q137 Lady Hermon:** I was slightly taken aback, I have to say, Secretary of State. I understood that the Eames/Bradley report had been launched at the end of January 2009. I have tried to look through the consultation document, simply placing before the public the recommendations that have been made and the questions below: "Do you agree with the recommendation? To what extent?" It was not an in-depth analysis that had to be taking place; purdah did not begin for some time after the publication of this report. So I have listened carefully to the reasons I have been given, but I am not convinced—

**Mr Woodward:** Forgive me, Lady Hermon. I think it is terribly important to get this on the record. The document was actually launched by Eames and Bradley at the end of January/beginning of February. We took initial soundings from people, but you will remember the entire debate through February was completely skewed by a discussion about recognition payments. Then, very, very shortly after that, we had the attacks at Massereene, and all our time and resources, I think, were rightly devoted on that issue at the time. It is from that we emerged with the idea of a consultation, and it is from that we emerged with actually making it very, very simple. I apologise if it has not been done in a timeframe that you would have preferred, but it has not been to do any disservice to Eames and Bradley's work; it has been to recognise that we needed to go back to some first principles.

**Q138 Mr Murphy:** Secretary of State, one of the recommendations in the report was the proposed setting up of an information recovery and thematic investigations scheme and one of the recommendations attached to that was that in order to try and increase public engagement anyone coming forward to make a statement should have that statement protected; whilst there would not be a general amnesty whatever they said could not be used in a court either against them or anyone else. Is that not in fact a *de facto* amnesty?

**Mr Woodward:** The word "amnesty" as we know, when it was used in a public meeting in relation to the earlier work that Eames and Bradley were preparing, again occupied about a week of newspaper headlines in Northern Ireland and being now in my third year as Secretary of State for Northern Ireland I may be just about smart enough to know that the use of that word is potentially highly, shall we say, difficult. I will not be too

tempted therefore to use that. The proposals that they have put forward are interesting; they are not without complication; they bring together a number of major issues that needed to be confronted. The whole idea of breaking up the way that an investigation and inquiries could be conducted, the challenging of the orthodoxy that, for example, you would just have an inquiry, clearly all of that has been thrown up at the moment by the costs and the questions that are surrounding the Saville Inquiry. The whole issue of people having legal representation, the whole issue of whether or not actually you would be able to have an effective inquisitorial system without an adversarial system under the proposals that are put here, the fact that people could perhaps still implicate themselves and whether or not they would indeed have an effective immunity by what they say—all of those arguments need to be worked through and rehearsed. The proposition is sound because, as I say, there is the whole business surrounding particularly the Saville Inquiry, the value of which is inestimable but the costs of which are clearly daunting—£200 million of which £100 million has been spent on legal representation. We are of course rehearsing on the main floor of the House today an argument around an inquiry into Iraq. The whole problem, for example, of any proceedings taking place in public involves people saying things for which they may feel they require legal representation. We know, for example, that the opening speech by counsel on Saville took nine weeks. I say all these things because they are invited by what Eames and Bradley have thrown out, and whilst I absolutely understand where they were trying to go with this, the fact that actually it has not in some cases had the support of some of the people they thought it had the support of at the time they launched their document just suggests to me that this is far more difficult and controversial than might have been appreciated at the time, which again is why we will look forward to hearing representations from people across the community. For example, a very obvious case in point is that I will be very interested in hearing a response from the Finucane family to the proposal that is there.

**Q139 Mr Murphy:** Have you a personal view on protected statements?

**Mr Woodward:** It would be injudicious for me to give a personal view on protected statements because I have to recognise that actually it could play a part in a proceeding at a later date.

**Q140 Stephen Pound:** Secretary of State, you anticipated me by referring to the business on the floor of the House. In the consultation on the consultation on the consultation recommendation 20 refers specifically to the problems caused by public hearings, and there is a sentence which I have to say resonates with me personally that says that “Thematic examination will take place without public hearings because this would facilitate more open and frank disclosure and avoid the constant publicity of present inquiry proceedings.” I entirely

understand the point that is being made there and I understand the points that you have made, but when you have a situation such as the Omagh judgment, which then leads to more inquiries and the statements made are so powerful as to be almost impossible to ignore, how do you actually have those two things sit together when you are quite rightly and objectively and scientifically saying there is a real problem, not just of cost but of confidentiality, of frankness, of individuals being prepared to give statements with the entirely legitimate and clearly very strongly articulated call for public inquiries?

**Mr Woodward:** I would add to your list of prerequisites fairness, which is absolutely essential in any process that takes place. There is no simple answer to your question but, equally, let us remember that a public inquiry takes place because it is in the public interest and the public interest has got to be placed alongside the context in which it takes place. For example, I have said that I believe the Saville Inquiry to have been and to still be invaluable, but when it was set up it was envisaged it would report in two years and cost in the region of £11 million. We are now in its ninth year, it is about to cost nearly £200 million, such are the problems of having an independent inquiry. I am perfectly prepared to make a very strong case for an independent inquiry and in reference to—since you tempted me I may just briefly respond—the inquiry being offered on the floor of the House at the moment, that is actually going to look at a seven or eight-year time period, not just the events of one day. It is being asked to do this if possible within a year and indeed, as we know, there are many people who would like it done in six or eight months—I remind everyone that the opening statement by counsel for the Saville Inquiry took nine weeks, and that was because if you have a public inquiry people want representation. There are therefore huge public interests around cost which have to be addressed and around time. One of the things that concerns me about the Saville Inquiry is that many of the people for whom this inquiry is being made will not be on this earth when it reports.

**Q141 Chairman:** A lot of them have died already.

**Mr Woodward:** That is of the public interest too because if this is for the families or for the individuals and they have died because they have died waiting in a *Bleak House* Jarndyce and Jarndyce type of way, at the end of the day where is the public interest? As I say, I believe the strongest part of the public interest in Saville, as well as setting out to establish the truth, was that the British Government was prepared to put itself in the box, and there is no question that in doing that it helped transform a moment in the peace process. But that is a question of public interest and the issue of the public interest has got to be put into this equation, and that was something which I felt was necessary to actually add into the proposal that is here. But it is also necessary for us to test this with lawyers and explore actually the consequences of what is being proposed here because the one thing I would not want to do, if I followed this proposal, would be to

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create something which, as it says, “the unit would operate in private” and yet we know that on the floor of the House downstairs the opposition that is being displayed, perhaps opportunistically by some but nonetheless being displayed quite genuinely by others, is a concern that unless it is in the open there is a problem. But the problem is, as we also know, that if you are touching on issues of national security for example much of that cannot take place in the open because you would compromise national security and individuals, and yet there must be a judicial process—and that is again part of the problem of Northern Ireland because we are permanently, Sir Patrick, being judicially reviewed on restriction notes and for information that we cannot put out there. That is all relevant to trying to find a better way forward.

**Q142 Chairman:** You will also know, Secretary of State, that this Committee has already said in one of its earlier Reports that we do not believe there should be further costly public inquiries—and it is impossible to have one that is not costly—unless there is a genuine demand right across the political spectrum in Northern Ireland. I do hope that as you conduct your consultation exercise we are not going to reach a stage where there is consensual demand for things that then cannot be provided because they are too costly.

**Mr Woodward:** I do not think that you can in that sense put a price on justice.

**Q143 Chairman:** No.

**Mr Woodward:** But I do equally feel—and this Committee and the members of this Committee and when the members of this Committee have as it were reconfigured themselves on the floor of the House in Northern Ireland questions sometimes along party lines (and not only of course in Northern Ireland)—that nonetheless people quite rightly have been pressing me on the cost of Saville and it would be irresponsible if I did not at some point say that I do have a responsibility to the public purse because of course the public purse has no money in it except for the money that it takes from the members of this Committee and the rest of the public in taxation. That is part of the public interest too and indeed that has turned out to be a problem with Saville because it is not possible for us, because of its independence and not being established in the way that we would now establish an inquiry, to have perhaps the kind of public accountability on an annual basis that we might like now to have seen.

**Q144 Stephen Pound:** I do not want to deconstruct everything you said but I think one of the comments you made earlier on was extremely important, it is not just a question of semantics. You defined a public inquiry as being a public interest inquiry.

**Mr Woodward:** No, a component part of a public inquiry is to understand the public interest in the inquiry. For example, somebody may wish because of an incident to have a public inquiry. It is a crucial question to ask, is this in the public interest perhaps to commit X amount of money, X amount of time,

X amount of whatever, and therefore the public interest test here has to always be relevant because otherwise for example in Northern Ireland, for reasons everybody in this room would understand, I could probably if I wanted to please everybody establish about 1000 inquiries tomorrow.

**Q145 Stephen Pound:** That figure is probably on the low side.

**Mr Woodward:** It probably is actually.

**Q146 Stephen Pound:** The point I am trying to make is that the public inquiry which is in the public interest could therefore, by your definition, be held in public, in private or, dare I say it, in a public/private partnership.

**Mr Woodward:** Yes, but you would have to recognise that there would be issues raised in the course of that inquiry, the kind of issues that were understood in the context of the Inquiries Act and the passage of that Bill through this House which recognised that issues of national security have to be taken into consideration. For example, it is of great interest to me and it may be helpful, Sir Patrick, if I just share with the Committee that for reasons I absolutely understand—so there is no criticism implied here—despite the openness of the Saville Inquiry, despite the representations that took place to ensure that the workings of that inquiry could be in public, I have received numerous representations to ensure the anonymity of certain people in that inquiry continues. In other words, even with the idea of having an open inquiry we have to understand that there are certain dimensions which cannot be open. I just put that on the record because I do think in this particular climate, as we discuss Iraq as well as these issues, sometimes those pressing for openness are perhaps a little disingenuous with the public because what might be felt to be openness quite quickly is realised to be something that cannot be achieved.

**Chairman:** We must not pursue the Iraq analogy this afternoon. Christopher Fraser please.

**Q147 Christopher Fraser:** Going back to something that Sir Patrick mentioned earlier has ruling out recognition payments allowed the sensible discussion that you saw when you met us three months ago? I was not clear from your opening statement that that was the case.

**Mr Woodward:** You use slightly different words to describe what I said about recognition payments. I have said that I am not minded to do so and it is not my intention to do so, and clearly it would be completely pointless to ask people to send me genuine representations on this issue if I had categorically said “No not ever”. However, I have made my position very clear and the Government’s position clear: we are not minded to do so, but I have invited, because we live in a democracy, those people who genuinely want to make their representations for and against to put them on the record because I do believe it is invaluable that we take some of the heat out of the argument of recognition payments and put some light on the issue, not least because one of the issues that got unfortunately confused in the

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discussion around recognition payments was the definition of victim. The definition of victim as we know is a matter for the Assembly but equally it is something that got somewhat confused in the debate that took place about recognition payments, because some people formed a view that what might be being argued was that, for example, a paramilitary individual who may have lost his life should be considered to be a victim, and very clearly that is not the definition that has been established by Bloomfield and others afterwards of what a victim is. One of the reasons I am quite keen to do the consultation exercise in relation to this particular recommendation is that we actually re-establish the facts and the context and move away from some of the heat which had the unfortunate consequence of somewhat muddying that definition, and it is a critical definition for many of the other recommendations if we are to establish a reconciliation process and not get drawn into tangential arguments which may serve a political purpose but actually may do nothing to help with reconciliation.

**Q148 Christopher Fraser:** I have a couple of points on that which I will take in order as I have written them down. First of all on recognition payments, are you actually saying “not never” so that you will revisit it potentially in the future? You have not drawn a line on this.

**Mr Woodward:** I cannot commit a future Parliament on anything any more than this Committee can commit a future Parliament, so I have a recognition of the limits of my authority which probably might end in a few months time if we are successful in getting to stage two, so let us be quite sensible about this. My very strong sense about this, Christopher, is that there is absolutely no consensus on a recognition payment, so short of a Monty Python sketch of hitting my head against a brick wall it is not going to happen.

**Christopher Fraser:** That is why I was asking the question. The second point you made about the recommendation and the consultation about the definition of victim, you could tell us today that you feel the definition as it stands under the 2006 legal definition could be revisited. Are you suggesting that today?

**Mr Woodward:** I am going to respond to that, just for the benefit of Hansard—and most of the members of the Committee will know and therefore those who may, if they have a little insomnia, turn to Hansard at this point, by reminding the Committee of the words of Alan McBride whose wife, as we know, was killed in the Shankhill bomb. He said: “I have often acknowledged, as in the case of losing my wife, that the mother of bomber Thomas Begley hurts much like myself. Mrs Begley should receive all the help that society can give her to deal with her own tragedy, but I will always stop short of suggesting that that should be monetary.” That is really helpful. There are many, many different views and everyone is entitled to their view and should be respected, but somebody who has been the victim, somebody who has suffered such a terrible loss, who

has the compassion and the ability to reach out and understand—there are lessons to be learned from those remarks about the understanding of the nature of being a victim, which of course refers to the family of those who were bereaved. This is not to get into an argument about moral equivalence where I know sometimes people like to draw this, it is not to get into an argument about a hierarchy of victims, it is simply to understand that there are families left behind who hurt and whose pain is awful. In the words of Alan McBride there is a lot we can all learn. Whether we are all ready—and that is the point about time—to actually act on that is something else, but I do believe there is something for certainly me to learn in that and, therefore, rather than pronouncing my wisdom on this issue this is something where I actually feel I have got a lot to learn and a lot to bring to bear on this. Ultimately, however, the definition of victim, Sir Patrick, is a matter now for the Assembly because that is actually something that falls into their devolved responsibilities and not mine.

**Chairman:** I am glad you mentioned Mr McBride. He was one of the most impressive witnesses the Committee had and we did of course refer to his evidence in an earlier Report. Mr Fraser.

**Q149 Christopher Fraser:** A last point which we have asked before but I would like to put to you because I am not sure we got a clear answer necessarily from other witnesses. Do you believe the report increased tensions between communities in Northern Ireland or not?

**Mr Woodward:** One of the issues that the report rightly touches on is how we work towards reconciling communities which have been ridden with, in some cases, almost institutionalised sectarianism. Again, one of the propositions in the report—and this is a personal view which is not yet the Government’s view because we will form that when we have seen the responses—was for example a component part of the Legacy Commission that would have £100 million to spend on projects. I have a question in my mind about the appropriateness of that, not because I do not think the projects need pursuing, they absolutely do, but one of the issues touched on repeatedly in the recommendations is the question of overlap with institutions that are already carrying out some of these functions. Secondly, the responsibilities rest either in the Office of the First and Deputy First Minister, or with the Executive or indeed with the Assembly to carry out some of these functions, and therefore it might be a consideration that part of this body should it be formed, or an advisory forum that might be formed around it, would seek more to be an integrated part of influencing the other existing institutions—whether it is the Assembly, the Executive, or the Community Relations Council, the Victims’ Commissioners—with what they do. Of course everybody would always like more money and one of the issues the report does not answer is where of course they think the £100 million will come from, which is a pretty important question to resolve, particularly in the middle of a recession.



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**Q150 Christopher Fraser:** There are still tensions, *Mr Woodward:* Anybody would be aware of the tensions, but if I immediately again just put this right, an unfortunate phrase was used by somebody last week on television—a woman who I actually respect a lot—which was in the context of the terrible acts of intimidation against Romanians, that Northern Ireland was addicted to hatred. As I said in interviews over the weekend I do not believe that is the case, I believe Northern Ireland has not only been weaned but is weaning itself so far away from that that fortunately what we saw last week, for all the horror of the incident, was the universal condemnation of every community, every political leader and the institutions against those acts, and that is a very different Northern Ireland from the one of 20 years ago.

**Q151 Chairman:** Secretary of State, I would like to ask the question that I know Dr McDonnell, who is unavoidably detained this afternoon, would want to ask you because he brings this up time and again, regarding the need for effective health care provision for those affected by the Troubles, particularly in relation to mental illnesses related to the conflict. Do you think that the current services are sufficient to meet this need and are you determined that they will be improved, however much or little of this report is finally implemented?

*Mr Woodward:* Again, the health service of course is a devolved matter.

**Q152 Chairman:** Of course.

*Mr Woodward:* And I would like to pay tribute to the work that is being done by people in the health service in Northern Ireland. We know that across the United Kingdom—and this would certainly be true in the Republic as well—those working in mental health anyway would regard themselves very often as the Cinderella service within the health service, so even without the Troubles those working with mental health issues would have a very strong case for more resources when they can be found, but Northern Ireland undoubtedly presents a compounded set of mental health issues. An issue when I was the Health Minister when we were in the period of direct rule that I became particularly concerned about in this area was young male suicides, which are staggeringly disproportionately higher than they are in other parts of the United Kingdom. But equally as I began to delve inside this issue—and it is an issue which I suspect members of this Committee have also been concerned about—if we were simply to pass away an explanation for the numbers of young male suicides by saying they are about the Troubles—which in many cases they may be in some related way—we would also miss some other fundamental issues. For example, I will never forget the visit I made to the home of one family when I was the junior health minister where the parents had a son who died, and it became very apparent to me that the son was gay. It was also very apparent to me that it was something the parents just could not possibly come to terms with. So there are social issues which will exist in a society that may

have had considerable difficulty with, for example, equality issues, which also need to be understood for what they are and not explained away as symptoms of the Troubles, or they may be compounded as such. What this report rightly raises is that the health issues and the mental health issues which arise because of the Troubles, which have compounded a mental health problem that exists elsewhere in the UK, do require special attention and do require more attention than they have currently got, but whether this is the body that effectively should be acting on those as opposed to advising on them is a very interesting question.

**Q153 Kate Hoey:** I have just a couple of quick points, but can I congratulate you on your robust defence of Northern Ireland against someone whom I know you actually worked with before, and I thought they had very misguided and actually rather ignorant views about people and the state of Northern Ireland. Can you just remind me of the cost so far of Eames-Bradley? I do not mean how much they are being paid, I mean overall what we spent including this new consultation document.

*Mr Woodward:* The cost of the new consultation document I am very happy to write to the Committee about but I think you will find it is truly very modest and I therefore perhaps apologise for the form, because it does look like something we photocopied and put together, but that is exactly what it is. In relation to the consultative group's work, the total cost of their work so far—and I say so far because it may be that there are a few extra pounds to go into it but we are talking of very, very modest remaining amounts if indeed there are any at all—is £1.2 million.

**Q154 Kate Hoey:** We are a long way away from the Saville inquiry.

*Mr Woodward:* I am pleased to say that we are about £195 million short as they say.

*Stephen Pound:* Even Saville started off low.

*Kate Hoey:* It has taken six months and I accept that there were reasons for that, to get to this stage, and Lady Hermon has asked about that. We now have until October for people to fill in their tick boxes and their explanations. The timetable from then on, given that there could well be a general election some time in the next year—

**Chairman:** There has to be.

**Q155 Kate Hoey:** I mean there may well be one long before next year. When you are at your most optimistic on this, where do you see things being before a general election comes, should say a general election come next May?

*Mr Woodward:* Realistically this could only possibly be proposals before a general election takes place. We know that it must take place before June of next year and it may be helpful just to remind the Committee that it is actually four and a half months not six months since it was published, so it is not 50% longer than that. Secondly, it was not my original intention when I presumed the publication of Eames and Bradley was coming that this is what we would

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24 June 2009 Rt Hon Shaun Woodward MP, Ms Katie Pettifer and Mr Nick Perry

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end up doing, but it was precisely because of the kind of conversations I had with major political leaders in Northern Ireland that led me to realise that actually there was not a consensus that could easily be found on some of the really critical issues. When you pressed them on, perhaps, 60% or 70% of the other recommendations they said “Those do not trouble us too much at all” but it was not entirely clear to me that actually they were the same 16 or 17 recommendations. So as one went round informally talking to people it just became apparent to us that for us to have responded in the way that I had originally anticipated just would have been inappropriate because I would have responded in a way that immediately would have launched a new set of arguments, but again would have simply put more heat out there and a little less light.

**Q156 Kate Hoey:** In all honesty do you think anything will really ever come of this?

**Mr Woodward:** Yes, it has to come of it, because unless we actually, I believe, establish a reconciliation process which is owned by the institutions of Northern Ireland in a comprehensive way and which is seen to be fair and sustainable and tackles some of the issues, not necessarily as I have said in a big bang approach but in an evolutionary way, then the potential for some of the wounds of the past not to be healed but to be at best Band-aided will remain there. I do think they need to be addressed.

**Q157 Chairman:** In that context may I ask you a final question in the public session. When he was Prime Minister Tony Blair made it quite plain that without the John Major/Albert Reynolds dialogue the Good Friday Agreement would not have happened. The people who contributed from both sides of the political spectrum in the United Kingdom have been one of the good features of the lengthy troubles and

difficulties in Northern Ireland, and there has been more or less a bipartisan policy across the House here in the UK. Without wishing to anticipate the result of the next general election, which must happen within the next year, are you having any sort of conversations and are your officials having any sort of conversations to ensure that there will be continuity on this—and you have just indicated you believe that something must come of it—to ensure that something does come of it?

**Mr Woodward:** I have a regular conversation with the Shadow spokesman for the Conservative Party in Northern Ireland and also with the Liberal Democrats on a number of issues and we have discussed, both in its evolution and at the time of publication, Eames-Bradley. What we will now do obviously is have the same conversation in relation to the consultation but I hope as this Committee knows, Sir Patrick, and I hope as you know I have never sought to gain political advantage from the work we do in Northern Ireland.

**Q158 Chairman:** I am not even beginning to suggest that.

**Mr Woodward:** As such I have no intention to depart from that policy in how we will respond to the consultation document on Eames and Bradley because I believe it has been an enormous strength to the peace process and the political process that that bipartisan approach by all parties is maintained and has been maintained.

**Chairman:** And of course this Committee has only been able to work on that basis as well. Thank you very much indeed for that, Secretary of State. We are grateful for your answers which we will obviously be pondering on as we prepare our own recommendations for you. We are most grateful to your officials for coming. That concludes the public part of this session; if you would be kind enough to remain behind for a few moments. Thank you.

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# Written evidence

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## Written evidence from FAIR

I write to you on behalf of the victims in Northern Ireland who have suffered the worst effects of terrorism for almost four decades. We have given much to secure peace and that is our earnest desire, however we will not accept peace at any price. Peace must be genuine, it must be grounded on the protection of rights and it must secure justice. These are fundamental and international requirements for any process that purports to deal with the pain and problems of the past.

Many of you will have witnessed the pain played out at the launch of the Eames Bradley Report, and that best sums up victims response to this document. It was the final insult after years of injury and we say to you today it is unacceptable. It contains the seeds of future conflict not the promise of reconciliation and lasting peace and it is not an automated rejection that motivates us but rather an inspired vision for a better future. We have tried to contact the group since they released their report but to no avail therefore we ask that you our elected representatives raise these matters of concern. We have warned that the Group was not representative and that this would led inexorably to a flawed partisan report. Sadly our predictions have come true and once more victims are excluded and insulted. However as you are equally aware we do not take such treatment lightly and we will ensure that this report is unworkable.

Our desire is that even at this late stage the process could be salvaged, and our constructive proposal is that victims of terrorism whose views have been so clearly excluded would be given the time, space and resources to add their views and that with this balance included government would consider the product afresh. We have spent our time money and resources to canvass the opinion of those the Group have so studiously ignored. We have spent this year meeting with groups and individuals, hosting an international conference to which experts from across the world contributed and putting our views to Eames and Bradley. When we write to you we write on behalf of not only FAIR but the Northern Ireland Network of Victims of Terrorism Groups—Northern Ireland Terrorist Victims Together.

We include our concerns about those chosen to form the Consultative Group and the Groups lack of balance by not including a victim's representative. Secondly the process, which in good faith we participated in however we would question what, happened to our contribution. Many of our groups and members attended the various public meetings, we met the Group itself and we made our views and papers available to them. However we fail to see where they have been reflected in the report. Our feedback from the public meetings is clear that the majority of opinions supported our position, yet they have been actively ignored.

Therefore we see the views of thousands or the real victims and especially those in border areas ignored in preference to Republican opinions which we see repeated time and time again. To take the example of Collusion—the group accepts in its entirety the Republican mantra on this matter. It actively ignored the issue of Irish Government Collusion, which has been proven by the Irish Courts in 1970 during the Arms Trial and is currently under investigation in the Breen and Buchanan Inquiry. This failure points to the real ethos of the Report and we must conclude that it is at best misleading at worst totally partisan and disingenuous. We appeal to you now to stop this Report before it does any further damage to victims and community relations at large.

We have spoken to the Victims groups many of which responded, to the Consultative Group even meeting them face to face and hundreds of individuals who attended the public meetings. Further we have contacted local council such as Ballymena who are listed; as well as representatives from the main churches, the Orange Order Independent Orange Institution, Bands Association and a range of other community based groups. In each case they are very clear that the views contained in the Eames Bradley report do not reflect their principles, opinions policies or preferences, and that they would not support the present Report.

We further enclose an open letter to the people of Northern Ireland from the Innocent Victims, and a summary of our analysis of the Report. The Report stands condemned by its ethos and contents alone however the Group itself must bear the responsibility and we include exposes on a number of them to underline how unacceptable they were and are to victims and how wholly unrepresentative the group was.

In conclusion our concerns are

1. The Consultative Group was not representative and as a result chose to ignore the "... impassioned arguments that there should be no equivalence between victims and perpetrator" and rather accepted the Republican mantra that "...there must be no hierarchy of victims."
2. That based on the erroneous definition contained in the Victims and Survivors (Northern Ireland) Order 2006 the Group have established a process which degrades victims.
3. By placing Justice under Reconciliation they create a contradictory dynamic that will ensure Justice is denied and those who continue to seek it will be portrayed as the aggressor.

4. In the words of the Inkatha MP Abraham Mzizi who described South Africa's Truth and Reconciliation Commission as the "Truth Revision Commission", we believe this report will see terrorism airbrushed out of our history and blame shared which would be a lie and an insult to our loved ones.
5. The Report also plans for a de facto Amnesty based on a guillotine on historic cases after five years, and immunity from prosecution through a process where victims will be forced to choose either truth or justice.
6. The Report is partisan in that it accepts Republican rhetoric on issues such as collusion and ignores the Irish Government, while putting in place the mechanics for a witch-hunt against the state and security forces. It also attempts to deny the Unionist Community Inquiries and similar process which Nationalism have enjoyed.
7. It is unprincipled and impractical such as the sickening £12,000 payments to the families of terrorists or the ludicrous notion that these issues will be resolved in five years. The blood money as victims have termed the payment is a smokescreen to hide the more systemic flaws and we have no doubt will be dropped.
8. Forced top down initiatives such as "mutual forgiveness based on a sharing of blame" institutionalised reconciliation through events such as a day or the sanitisation of history will not work and will be counter-productive destroying years of hard work on the ground.
9. Create a dangerous precedent and double standards in terms of terrorism at a time when the United Kingdom faces a real threat.
10. By ignoring victims and their advice the government will waste millions only to find themselves no further forward in five years.

We ask that you listen to our genuine concerns and take this opportunity to question the Group on the issues listed. We all hope to deal with the past but that will take time and effort and we are willing to invest in it. We all seek peace as we are those who have paid more dearly for it than most however it must be a genuine peace.

23 February 2009

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#### **Written evidence from Mr A Wallace**

It is my understanding that you are to chair the committee to investigate the proposals to deal with what I can only describe as the aftermath of the "troubles" in Ulster.

I feel that I must make you and of course the committee aware of my wife's case in relation to the proposed payouts relating to these matters and hope that this may highlight some of the injustices that have been carried out by successive governments when dealing or rather, not dealing with matters arising from the "troubles".

My wife, then 17 years old, was caught up in the explosion at Oxford street bus depot in Belfast on "bloody Friday" 1972, as a result of this she suffered lacerations to her face, her back and was left with a perforated ear drum not to mention shock and trauma and in later years agoraphobia.

Under Northern Ireland law at the time, my wife was not allowed to claim criminal injuries compensation in her own right as she was not old enough, however, her mother although well intentioned was meant to do this on her behalf but due to her own injuries received in the same explosion, failed to do so.

I was a serving soldier at the time and arrived in Belfast for a tour of duty a few weeks after "bloody Friday" but obviously due to my military commitments was equally unable to pursue compensation on my wife's behalf. The fortunate part of this story is that because of military influence and the obvious dangers my wife was flown out of Belfast to my home base in Osnabruck, Germany and while this put my mind at ease it in no way gave my wife the compensation she deserved.

I am certain that my wife is not the only victim of the violence of terrorism in Ulster that has never been given appropriate recompense for her injuries and that it is more than likely that she never will, however, while we are prepared to live with and accept that this is the case, it hardly needs to be said that the current proposal where bereaved terrorists families are to receive compensation at any level leaves us cold, her as an innocent victim and I as an ex soldier find this abhorrent and totally unjust.

This will not in any way go towards the healing process and make any inroads into ensuring a lasting peace but will be divisive and reopen old wounds, leading to bitterness and a lack of trust that will last for years to come.

While my wife and I are probably insignificant in the bigger picture, we still feel strongly about this issue.

We therefore humbly request that you and your committee take the innocent and their lack of justice into account when making any decisions or recommendations to parliament and refuse this compensation to the family of any terrorist of any side, anything else, only increases the hurt and creates an even greater sense of injustice.

I am prepared to return my campaign medal to register my personal horror at these proposals and much as I am aware that this is insignificant to anyone other than me, I feel it to be the least I can do.

10 February 2009

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### **Written evidence from County Grand Lodge of Belfast**

Our County Grand Lodge meetings bring together the various District Lodge Officers who represent and articulate the views and issues brought forward to the meeting from Lodges under their charge. They are indeed representative of the many thousands of Orangemen and their families within the City of Belfast.

At our most recent meeting, we discussed the recommendation of the Consultative Group on the Past, to award a one—off payment of £12, 000 to the families of every single person killed as a consequence of the so-called “Troubles”.

We would wish to record in the strongest possible terms our objection to this proposal. Some people might suggest that there is no such thing as a “Hierarchy of Victims” in Northern Ireland, we would profoundly disagree.

No one who has the slightest cognisance of principles and fairness or justice could possibly accept that those who engaged in terrorism should have moral equivalence with those who were innocent of any criminal behaviour and who lost their lives during Northern Ireland’s violent past.

Would the Northern Ireland Affairs Committee seriously accept that terrorist criminals who killed themselves whilst attempting to blow up businesses or property within our towns and villages, or those cities in England, are as much a victim of the “Troubles” as the innocent people whom they murdered.

We believe that there is a clear and obvious distinction to be made. This should be reflected in any proposals aimed at addressing the legacy of the past in Northern Ireland.

I cannot understate the degree of moral revulsion there has been within the community at this suggestion. It cannot ever be right to treat in the same way those who made it their business to murder innocent civilians and destroy property and those who suffered as a consequence of their actions.

Many of our members myself included responded to the call from this Institution to join the Ulster Defence Regiment or the Police Reserve, many of our brethren and colleagues paid the “Supreme Sacrifice” in the course of their daily business or whilst on duty protecting this land and all that we hold dear. I would ask, has their sacrifice been in vain if a terrorist is to be considered of equal value?

We would urge the Northern Ireland Affairs Committee to seriously consider the feelings of the families of the many innocent victims regarding this recommendation.

*Thomas Wright*  
County Grand Secretary

23 February 2009

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### **Written evidence from Chief Constable, Sir Hugh Orde, OBE, Police Service of Northern Ireland**

#### **EXECUTIVE SUMMARY**

- As Chief Constable of the Police Service of Northern Ireland I have been intimately involved in efforts to try and help families of victims of The Troubles find a measure of resolution. The PSNI’s contribution has been the work of the Historical Enquiries Team (HET).
- The Historical Enquiries Team has so far re-opened 1,427 cases (1,869 victims). This represents 56% of the total number of incidents within HET’s remit.
- HET has recently commissioned an independent survey of families in cases that have been completed. Headline results show that 95% of families viewed HET as professional; 67% felt their questions were fully answered or mostly answered; 72.8% felt the HET report was useful (of which 56% felt the report was very useful); 86% felt satisfied or very satisfied with performance of the team.

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- For practical and financial reasons, HET's remit has had to be confined to cases where people were killed. I was pleased to see that the CGP Report examined the broader aspects around the nature of victims and the Troubles.
  - The Report envisages the HET's role being subsumed by an Independent Legacy Commission. I have consistently said that I am not precious over the "ownership" of the HET; if it is demonstrated that families will receive a better service from an analogous external process, I will happily support that.
  - The Report discusses further sub-dividing the investigation role into separate disciplines of "Information Recovery" and "Thematic Inspection". Currently, the investigative work undertaken by HET includes consideration of all these elements.
  - I am not convinced that it will be possible to disconnect these elements in such a clinical manner. I do not attach much credence to the prospect of former paramilitaries engaging with any process to assist in "truth recovery" or helping families.
  - I have serious concerns that the logistical implications for taking the HET outside the police environment have not been fully appreciated. At present, it operates under my authority and with the full resources of the PSNI in support.
  - The CGP Report referred to costs of £100 million for existing operations. I am not privy to the calculations they considered; the HET is funded by the NIO for £12.3 million for the next two years. That will end the current funding of £34 million; estimates are that the HET, if unchanged, would require a further two to three years work. At the same approximate level of spend, that would cost an additional £18 million, a total of £52 million for all cases.
  - In April 2008, I gave a presentation on the work of HET to the Committee of Ministers of the Council of Europe. The Committee recorded that it found the HET to be well-structured and independent, a "useful model" in post-conflict resolution. As a result, a General Measure before the European Court (relating to defects in police investigations) has since been closed.
  - HET has recently engaged further with the Victims Commissioners to examine what improvements working closer together can make.
  - I welcome the Report of the Consultative Group on the Past, which highlights the good work already being done in many areas; the outcome must build upon the experience and achievements already in place.

## INTRODUCTION

As Chief Constable of the Police Service of Northern Ireland (PSNI) for the past seven years, I have been intimately involved in efforts to try and help families of victims of The Troubles find a measure of resolution. The PSNI's contribution to this issue facing our community has been centred around the work of the Historical Enquiries Team (HET).

I have fully engaged with and supported the work of the Consultation Group on the Past; I am pleased that their Report acknowledged the work of HET. An important public debate will now take place concerning the Group's recommendations, including this examination by the Northern Ireland Affairs Committee (NIAC).

This submission will focus largely on the second strand that NIAC will consider, the operational implications for bodies currently overseeing the review of historical cases.

## BACKGROUND

The Historical Enquiries Team (HET) is an independent unit of the Police Service of Northern Ireland (PSNI), which reports directly to me. I established this project because I saw the need for a bespoke unit that would re-examine all deaths attributable to the security situation in Northern Ireland between 1969 and the signing of the Belfast Agreement in April 1998.

The Northern Ireland Office (NIO) provided £34 million, ring-fenced funding that is separate from the main police grant and which has been apportioned over a six year period until the financial year 2010–11.

To meet concerns around independence, HET has developed a structure that has separate investigative units (designated Red and Purple), with the Red teams composed exclusively of staff with no previous connection to the former RUC or the PSNI.

The work involves re-examining 3,268 deaths, which had occurred within 2,540 incidents (or "cases"). Every one of these incidents, in a modern policing environment, would be classified as a "Category A" incident.

## OPERATIONAL DATA

The HET has so far re-opened 1,427 cases (1,869 victims). This represents 56% of the total number of incidents within HET's remit. These cases are at various stages of the HET business process.

Currently, 529 Reviews have been completed. The final "family resolution" part of the process, delivering results to families, can be influenced by various factors, including the number of questions raised, the number of families HET is working with on a case (families involved in these kinds of trauma are often fragmented) and the time it takes to get a date and time suitable to all parties for the resolution meetings. Over 220 such meetings have been held.

Because of the high number of victims in each of the early years of The Troubles, (for example, nearly 500 deaths in 1972 alone), HET has reached 1976 in its chronological approach.

To date, eleven people have been charged in connection with one series of murders under investigation (nine with murder and two have already been convicted of related serious offences). Two other investigations will result in files being considered by the Public Prosecutions Service.

## FAMILY VIEWS OF HET—EVALUATION SURVEY

As part of our ongoing Quality Assessment, HET has recently commissioned an independent survey of families in cases that have been completed. A number of factors were assessed, including satisfaction with performance, case handling and outcome. It has been scheduled now because the number of completed cases has just reached the requisite sample size for statistical relevance to justify the cost. The results have proven encouraging:

*95% of families viewed HET as professional.*

*92% viewed HET as sensitive.*

*67% of those asked felt their questions were fully answered or mostly answered (bearing in mind a family can ask anything and some questions are unanswerable, this is an excellent figure).*

*72.8% of those asked felt the HET report was useful (of which 56% felt report was very useful).*

*86% felt satisfied or very satisfied with performance of the team, whilst 5.4% felt dissatisfied.*

*68.4% felt the HET process had been very beneficial or beneficial, against 14% who thought it had not been beneficial.*

Overall, I am very pleased with these figures. It is an extremely difficult area of work to evaluate in a meaningful way, as outcomes can be as individual as the cases themselves. We intend to build on these findings to try and further improve our services.

## THE FUTURE PROVISION FOR VICTIMS IN NORTHERN IRELAND

The Consultative Group on the Past (CGP) met with the HET and myself on several occasions throughout its work. We provided details of HET processes, objectives and some of the key learning derived from challenges we had faced. Many of HET's practices form the basis of the Group's proposals around investigation and information recovery.

In our submission to the CGP, we recognised that it would be important to define terms such as "victim" and to specify what the concept of "the past" encompassed. HET works to specific time frames and for practical and financial reasons, its remit has had to be confined to those cases where people were killed.

I was pleased to see that the CGP Report examined the broader aspects around the nature of victims and the Troubles. Our submission to the Group also highlighted that much good work was already in progress, including voluntary groups and government agencies such as Trauma Advisory Panels, and that an opportunity might exist to improve co-ordination and support for such ventures to provide better help for families. In the current financial climate, this best use of existing resources may be an even more important consideration.

I have consistently said that I am not precious over the "ownership" of the HET; if it is demonstrated that families will receive a better service from an analogous external process, I will happily support that. My only caveat is that what replaces HET must be at least as effective and accessible.

## OPERATIONAL IMPLICATIONS FOR HET OF CGP REPORT

The Report clearly envisages the HET's role being subsumed by an Independent Legacy Commission. The Report proposes that the investigative work of HET and the relevant section of the Office of the Police Ombudsman for Northern Ireland (OPONI) should be combined within an Investigation unit of the Commission.

The implications for OPONI are best addressed by the Ombudsman, but obviously include requirement for legislative changes. In terms of numbers of cases, it is a small percentage of the current HET caseload that would be involved. There are obvious attractions in avoiding duplication and reducing overall expenditure.

The Report discusses further sub-dividing the investigation role into separate disciplines of “Information Recovery” and “Thematic Inspection”. Currently, the investigative work undertaken by HET includes consideration of all these elements as part of the preparation of “Resolution Summary Reports” provided to families.

I am not convinced that, in practice, it will be possible to disconnect these elements in such a clinical manner. Experience of major crime investigation—and of HET work—teaches that a broad, methodical and structured investigation will tease out all the relevant issues in a case. Information recovery is traditionally a by-product of effective investigation; thematic inspections are informed by trends identified during investigations. I do not attach much credence to the prospect of former paramilitaries engaging with any process to assist in “truth recovery” or helping families.

One of HET’s greatest attributes is its flexibility; its profile has adapted to changes in demand. At the beginning of its work, there was a need to search for and recover files and exhibits; as this has been completed, there is a need for more investigators and the search role has largely finished. Similarly, demands for tracing families will wane, and, as the volume of reviews are completed, there will be less need for the same number of investigators, but perhaps a requirement for more experienced senior staff to deal with more protracted enquiries. Any Legacy Commission would have to be similarly adaptable.

I have serious concerns that the logistical implications for taking the HET outside the police environment have not been fully appreciated. At present, it operates under my authority and with the full resources of the PSNI in support. This allows use of police facilities, support for HET operations from specialist sections, access to files, records, intelligence and communications, health and safety and security support, trusted access to internal departments and external partner agencies, IT equipment and support, vehicles and buildings and running costs associated with them, executive management level support, free HR and specialist financial support and media management.

These are the “hidden costs” borne by the PSNI and accepted as part of our input into the project in support of the NIO funding.

Most importantly, public confidence is created and maintained as HET staff act with and on behalf of the PSNI, accountable to me as the Chief Constable; this traditional approach is readily understood by the public and its representatives.

HET is a temporary project, run by the PSNI and NIO. Virtually all the staff are temporary workers, former police officers of great experience supplied by employment agencies. A Commission requiring sworn constables would have to recruit its own permanent work force.

All of these issues can be addressed, in time, but at a significant financial cost, with police powers required for staff and a publicity campaign to inform the public. It is unlikely that Legacy Commission Officers, conducting police-style investigations and occasional arrests, would be viewed as much different to police officers and this would raise issues about security for their staff and equipment/training required.

The CGP Report referred to costs of £100 million for existing operations. I am not privy to the calculations they were considering; the total funding for HET, the Ombudsman (and the PPS and Forensic Service) is £34 million over the six year project.

HET is funded for £6.4 million for this financial year; and a further £5.9 million for the following year. That will see the end of the current funding committed by the NIO; current estimates are that the HET, if unchanged, would require a further two to three years to finish its work. At the same approximate level of spend, that would cost an additional £18 million, a total of £52 million for all cases.

When I set up HET, there were few avenues open to families seeking to find out and understand what had happened to their loved ones. Some non-government organisations were striving bravely to support groups of families, yet had little opportunity of providing the answers that were needed. A very small proportion watched as their cases were embroiled in the Public Inquiry processes; time passed and money was consumed by the tens of millions of pounds, yet still few answers have been forthcoming to date. In contrast, HET remains an effective and comparatively inexpensive initiative for addressing the legal issues I face and the personal issues raised by the many hundreds of families with whom we are engaging.

I appreciate the wish expressed by some parties for an independent Commission; however, the HET has built a fine reputation for honesty and objectivity in its reports. I have clearly set out a standard of “maximum permissible disclosure”, which means that we will report in as much detail as possible, whilst complying with legal and ethical considerations and requirements.

In April 2008, I went to Strasbourg, to give a presentation on the work of HET for the information of the Committee of Ministers of the Council of Europe. This attracted a great deal of interest, as a number of cases being considered by the European Court were within the HET’s remit; defects in respect of effective and independent investigations were core concerns.

After considering the role of HET, the Committee published its findings, recording that it found the HET to be well-structured and capable of finalising its work; it acknowledged that it was sufficiently independent and could be considered a “useful model” in post-conflict resolution. As a result, a General Measure (relating to defects in police investigations) has since been closed.

I was delighted with this endorsement of HET’s work.



Northern Ireland now has a police service that is acceptable to all sections of the community. All the political parties are united in their support for PSNI, and they are all represented on the NIPB, which holds me to account. Building on this support, and the views of the Committee of Ministers, I believe that HET has the mandate and the capability to finish its work as currently structured.

That is not to say that I am averse to further evolution in HET's role; I am constantly interested in improving performance. For example, Northern Ireland now has four Victims Commissioners, who are independent of the police. Once again, it may be advisable to examine existing resources and see whether there is an opportunity to achieve much of the valuable work of the CGP by refining what is already in being. HET has recently engaged further with the Victims Commissioners to examine what improvements working closer together can make.

## CONCLUSION

I clearly recognised from the outset that HET would not be the answer for everyone affected by The Troubles. Indeed, I always envisaged that HET would be the police contribution to a wider process; in the event, it was alone in its field of operations for longer than anyone expected. I am delighted to see the growing role and influence of bodies such as the office of the Victims Commissioners, but I remain fiercely proud of the achievements of HET. We built contacts and trust with families and their representatives; we listened to their needs and questions; we undertook to provide answers in an open, honest and transparent process and we give families a written report on what we have found. We have pushed the boundaries in terms of police work far beyond any comparable process, and we have put families' interests firmly at the fore of all we do.

I welcome the Report of the Consultative Group on the Past, not least for the important focus it has given to issues affecting so many families; it also highlights the good work already being done in many areas to address these problems. Whatever the outcome of the debate, it must build upon the experience and achievements already in place and this can only be done with a full consideration of the many underlying factors, some of which I have outlined to you in this submission.

2 April 2009

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## Written evidence from the Corrymeela Community

1. The Consultative Group on the Past has proposed the establishment of an independent Legacy Commission which would have four strands to its work:

- Helping society towards a shared and reconciled future through a process of engagement with community issues arising from the conflict.
- Reviewing and investigating historical cases.
- Conducting a process of information recovery.
- Examining linked or thematic cases emerging from the conflict.

## 2. GENERAL COMMENTS

2.1 The issue of dealing with the past is deeply contentious but it is not going to go away. Silence, denial and avoidance will not solve anything. Doing nothing is not an option. And if not these proposals, what? There is no perfect process. The challenge is to hold together the (sometimes conflicting) requirements of truth, peace and justice which together are important constituents in reconciliation.

2.2 We need to be realistic about what can be achieved. The reality is that after community conflict there is usually little justice and the truth is often obscured, and when it is obtained often inadequate and bitter. The truth of Virgil's "lacrimae rerum" (the tears of things) is highly relevant. We are in the presence of tragedy. There is no way that we can repair the past. The pain of dealing with this issue and its deep intractability needs to be acknowledged. Nevertheless, we must do what we can.

2.3 All of this will require leadership, courage and priority from Northern Irish politicians, civic leaders and the British and Irish Governments.

2.4 The proposals of the Consultative Group are worthy of serious consideration because:

- They recognise the importance of helping society towards a shared and reconciled future through a process of engaging with community issues arising from the conflict.
- They highlight the role of remembering. Since drawing a line under the past and forgetting is not going to work in Northern Ireland we must promote remembrance for reconciliation.
- They do not give up on justice and prosecutions in particular cases remain an open option. Amnesty is not proposed.
- They take seriously the issue of recovering information to relatives.

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- They recognise that dealing with the past is wider than meeting the needs of victims alone and that the roles played by key actors and institutions in the conflict need to be examined.
  - They propose that the emphasis should be on not having new public enquiries. Endless enquiries are problematic. They are often hugely expensive and there is a perception that certain high-profile cases where there is an enquiry are more significant than others. Selective enquiries only produce selective truth.
  - It is suggested that the procedures be human rights compliant without being dominated by legal and judicial concerns. This balance will be hard to get right.

2.5 Many of these recommendations give rise to complex and difficult practical questions (eg the functions and powers of the proposed new Units) and the devil will be in the detail of any new mechanism.

2.6 It is important that any Commission:

- Be independent.
- Commands public confidence.
- Has adequate resources.
- Has political buy-in from Northern Ireland politicians.

### 3. SPECIFIC COMMENTS

#### 3.1 *Comments on the Strand One Proposals*

Much of what is proposed for Strand One is valuable but the suggested structures have not been clearly thought through. For instance, the work of the proposed Reconciliation Forum would overlap and duplicate in different ways the work of the Commission for Victims and Survivors for Northern Ireland (CVSNI) and the Community Relations Council (CRC). A Reconciliation Forum lacking authority and a clear mandate would not bring any added value and would only confuse.

#### 3.2 *Comments on Strand Two Proposals*

It is important that prosecution in particular cases remains an open option. The work that the Historical Enquiries Team (HET) is doing and the investigations of the Police Ombudsman are important, and it is vital that this work continues. However, the proposal that a new Review and Investigations Unit would take over the work of HET and the Police Ombudsman's Unit dealing with the historical cases would have the advantage of freeing up the Police and the Police Ombudsman to focus on policing now.

#### 3.3 *Comments on Strand Three Proposals*

There is no easy route to recovering information and truth and the success of the work in this Strand will be critically dependent on co-operation by state and non-state actions. Truth-telling without inducement is fairly rare. The Consultative Group has wisely recommended that there should be immunity from prosecution for people making statements during this phase of the process.

#### 3.4 *Comments on Strand Four Proposals*

A serious investigation of the past must wrestle with some dark issues: murder, torture, mass slaughter of the unarmed, the killing of civilians by the security forces, abductions, "ethnic cleansing", the effects of paramilitarism, collusion of the state with terrorism, to name but some. The Consultative Group has recognised that it is vital that we deal with some of these thematic issues. It needs to be done in ways that command public confidence. It may be important that not everything is done in private.

#### 3.5 *The Length of the Proposed Commission's Mandate*

It may be that five years is too short and that the mandate should be reviewed before the end of the five years to see whether it might be appropriate to continue for a further period. We need to see dealing with the past as a process rather than a once-and-for-all event, and it is likely to take generations. What we need to be doing is constantly testing what is possible at a particular time.

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<sup>1</sup> Olga Botcharova *Forgiveness and Reconciliation, Religion, Public Policy* chpt 14 Limiting Characteristics of Official Diplomacy.

### 3.6 *Victims & Survivors*

3.6.1 One of the three main reasons for the failure of over 50% of international initiatives and negotiations on peace processes is the failure to attend to the deep need for healing from victimisation of people in violent conflict.<sup>2</sup>

3.6.2 The Consultative Group's proposal on a recognition payment to the nearest relative of someone who died as a result of the conflict has been deeply controversial and will almost certainly not proceed. However, there are significant hardship issues among some victims and survivors which need to be considered. Numerous individual victims and survivors are not catered for by existing groups, community and voluntary organisations, and statutory services, etc. In addition, victims and survivors have a diverse range of needs and this requires to be recognised. Further, some of those needs may only emerge years later. Support and resources are central.

In the Bloomfield Report the response from the majority of victims was that the form of recognition of any value to them would be the recognition of their continuing needs. This was designated higher priority than the designation of some kind of memorial project or scheme.<sup>3</sup> This means we need to deliver systemic programmes, with conversations flowing from one service provider to another. Concern is often expressed at the lack of communication between them, and the rivalries as opposed to co-operation, that arise from funding being short term. The lack of stability in ever changing approaches and sometimes the sense of change for change's sake, creates unease.

It is important that the Trauma Advisory Panel programme is maintained. This programme has brought much good support to victims on the ground, specific to their needs and has gained much learning from its work. Many of its programmes are systemic, address the relationships of the family and some include within their framework identity perceptions and aspects of reconciliation components. Many of the victims who would not have found support through the "normal" [*perceived as medical*] system have found much to aid them in their recovery. All such holistic programmes must be encouraged.

3.6.3 Understanding the range of victims' needs across generations is critical, as is also understanding how these needs interrelate. The reality is sectarianism and its consequences, overt and covert, are a transgenerational experience. Older generations tend to want to protect younger generations from the reality of sectarianism and sectarian violence, not wanting them to know the suffering of the past. This deprives younger generations of awareness and resilience that they particularly need when violence re-emerges. Older generations can—consciously and unconsciously—recycle sectarian attitudes and actions as a means of self-protection and survival. Younger generations living in areas of social deprivation (largely due to segregation) often continue the sectarian narrative, as there is little else that is exciting, glorifying and empowering. Raising awareness of the impact of sectarianism, in a shared way with older and younger generations together, can help restore communication between them—which is very difficult otherwise. Without this communication, relationships between generations will continue to be stressed and cycles of violence and victimhood will continue to repeat.

It is in this context of cycles of violence and victimhood that we may see how perpetrators may also be victims, without excusing what they did. It may be too soon to acknowledge this in a public way, as the controversy over the proposed recognition payments showed. Nevertheless, perpetrators have needs too.

### 3.7 *Remembering*

Rituals of remembering are important if society is to establish a sense of the common ownership of the past and to offer an opportunity for people to participate in an event that collectively remembers and reflects. A movement from a Private Day of Reflection to an Annual Day of Reflection is to be encouraged but a Day of Reflection and Reconciliation may be a step too far at this time. The involvement of Northern Ireland politicians in keynote addresses etc could be important as long as it is not about telling politicians what to do.

### 3.8 *Storytelling*

It is very important that victims integrate the experience of their traumatic events into their own personal narrative—because these traumatic events shatter personal narratives and memory. Corrymeela has seen the power of storytelling, particularly the positive telling of stories which break silences, help people understand that they are not alone, and enable them to move on. Such narratives are not fixed on the toxic character of past events but rather provide a horizon for the future—a horizon that takes the landscapes of the past into the present. Storytelling needs safe spaces and we have learnt the power of the creative arts to provide an avenue for people to move out of silence. Our work with victims has enabled us to understand how long the work can take and how important it is that people's only identity is not that of "victim".

<sup>2</sup> Olga Botcharova *Forgiveness and Reconciliation, Religion, Public Policy* chpt 14 Limiting Characteristics of Official Diplomacy.

<sup>3</sup> From the report of the Northern Ireland Victims Commission Sir Kenneth Bloomfield, April 1998, 5.2, 5.3.

Therefore, the recording of the stories of victims in a variety of ways is important and we need to think how best that can be done—there are a lot of creative ways. We also need to think about preserving the “good” stories—the people who were peacemakers and who made significant positive changes in their lives. And we also need to think about the stories of former combatants and what they would be willing to tell (this may raise legal issues).

8 April 2009

## Written evidence from the Northern Ireland Community Relations Council

### SUMMARY

- All recommendations need to be properly debated.
- A courageous effort from the Victims Commission to embark on sensitive and meaningful work that provides opportunities to move forward.
- Before any new institutions are established the functions and objectives of the Reconciliation Forum need further thinking and much more detail.
- Agreement on a structure and delivery mechanism for the Victims’ Service is a matter of urgency.
- The role and remit of a Victims’ Forum needs further explaining.
- Consideration must be given to supporting individuals facing hardship not represented through victims and survivors groups.
- Information Recovery processes are key to dealing with the past and the “work” of the HET and Police Ombudsman must continue. Further clarity on mergers.
- Public enquiries and public hearings should remain an option.
- Seek clearer guidelines on planning and management of community memorials.
- The development of a framework for the creation of public memorial should have been considered.
- A public day of reflection will act as a marker of progress.
- Timeframe is not appropriate.

### 1. INTRODUCTION

1.1 The Community Relations Council (CRC) welcomes the opportunity to contribute to this inquiry on the Report of the Consultative Group on the Past. It is particularly pertinent to the work of Council and we hope our comments make a positive contribution.

1.2 Northern Ireland is a deeply divided society and the long-term after-effects of conflict continue to shape life and experience in Northern Ireland. The conflict created much suffering and the hurts of the past will not quickly or easily be overcome. The Council believes that in order for society to move forward in building a shared, inclusive and peaceful society, we must effectively deal with our past. Our goal is to lead and support change in Northern Ireland towards reconciliation, tolerance and mutual trust and promote sharing over separation. We work by promoting constructive and relevant dialogue, by actively supporting those taking real risks for relationship building, by acting as a practical bridge between groups in society and between the public, private, voluntary and community sectors and by promoting wider learning through developing better practice.

The Community Relations Council proposes that peace building is properly recognised as a process which all communities to work through and beyond the legacies of the past. It involves an investment of time and resources in building relationships which acknowledge both differences and interdependence.

### 2. FUTURE PROVISION FOR VICTIMS & SURVIVORS IN NI

2.1 General. Since 2002, CRC has acted as the Intermediate Funding Body for groups working with victims and survivors, and this role, in particular, has made CRC acutely aware of the sensitivities and extreme difficulties associated with addressing the legacy of the past. This inquiry is of particular importance as it re-focuses attention on the needs of this sector. Over the last 12–18 months there have been a number of very important developments at government level ie the appointment of four Victims Commissioners and a consultation on a draft strategic approach for Victims and Survivors. However there are many outstanding issues which have not been addressed which continue to have a negative impact on the work of this sector ie clarification on the setting up and remit of a Victims and Survivors Forum, the setting up of the Victims Service and a final ratified and actionable programme of work for the Commission for Victims and Survivors Northern Ireland (CVSNI).

2.2 Issues. The sector has been hampered by delays in appointments and the development of strategies etc so there is an urgency to take appropriate and deliberate action. Council is therefore particularly interested in the recommendations of the Eames/Bradley Report and how they put the needs of individual victims and survivors, groups and volunteers first, and bring clarity to the bodies responsible for this sector. The report correctly identifies the many issues affecting the V&S community: Funding sustainability, the complexity of needs—those of individuals, groups and carers etc, difficulties accessing services and duplication of services, the need to promote best practice, and ensure it promotes reconciliation long-term and the difficulties around this, trans-generational related issues, mental health, and addiction etc, alternative support eg be-friending.

In Council's recent submission to OFMDFM on the draft strategic approach for V&S we reaffirmed the need to address all of the above issues. Furthermore Council identified key areas that must be dealt with in any final strategy:

2.3 Definition of Victim. Council believes it is unfair and inappropriate to place this sensitive matter within the remit of the Victims Forum as it could potentially alienate individuals and groups who represent victims and survivors, and one which might never be resolved by a forum with so many differing views. It is a divisive piece of work. Council recommends either a re-affirmation of the current definition or immediate work carried out by responsible politicians to develop a new definition—an agreed definition must be in place before the strategy is rolled out. This would prevent future delays around this highly sensitive issue and ensure the forum does not end up as divisive structure.

2.4 Funding criteria & sustainability. The sector must be offered something more than the perpetuation of their current status. Government cannot build "a shared and better future" without engagement with the difficult process of acknowledgement and reconciliation beyond single identities. Council believes that criteria for funding should include the need for groups to plan strategically and to evaluate the impact of their activity on an ongoing basis in order to extend their scope. In the absence of such thinking there is a real risk that the delivery of change on the ground is becoming stagnated. Effective evaluation tools should be in place to better communicate the exact nature of such progress. If there is to be less money in the future for service delivery then effective evaluation models need to be in place now in order to focus service delivery on those interventions which are shown to have the greatest impact.

2.5 Needs assessment. It is important this takes place to ensure needs are being addressed by the appropriate bodies. It enables those responsible for Victims & Survivors to plan around budgets and work plans. Any needs assessment should include both qualitative and quantitative information. Qualitative information should be used to help assess why some victims & survivors make use of such services and others don't. Such information should be used to inform longer-term targeting of resources. It is important that this also takes place in an area-based context in order to promote consortiums of groups who can deliver services across a geographic area. This won't happen in all places due to relationship difficulties but must be actively promoted to ensure the survival of these services, with the added benefit of developing reconciliation.

2.6 The need to identify best practice, with subsequent development of standards in order to quality assure.

2.7 Data Collection. Council has concerns over the repetitive nature of data collection during the application processes for support and assistance. There is a growing sense of frustration among individuals etc who face a "bureaucratic" system each time they try and access help and support. Council therefore recommends the installation of a central database housed in a central location but which can be accessed by the various structures and services responsible for V&S—this would remove the "burden of proof", and therefore help minimise the re-trauma of those seeking help and support. It would also provide accurate data for monitoring and evaluation which could be used to identify gaps and ensure the strategy is meeting the changing needs of the V&S community.

## STRAND 1

2.8 Reconciliation Forum. Council welcomes the emphasis in the Report on healing and reconciliation as a critical element of dealing with the past. Council is absolutely convinced that all government institutions and bodies have a role to play in building trust, inclusion and reconciliation. Council is also not in principle opposed to a body that promotes societal reconciliation. However we remain seriously concerned about the potential for overlap and duplication in the current proposal, not least with our own work.

2.9 Over many years, CRC has been energetically committed to the practical promotion of reconciliation on the basis of fairness and equality, respect for diversity and a commitment to build a shared and better future for all. The wealth of social, community and organisational practice and knowledge that has been created as a result must obviously be central to any institutional commitment to reconciliation. As it stands, the current proposal for a Reconciliation Forum creates uncertainty about the relationship of the work of a legacy commission into the past and the role of CRC. Furthermore, the role of the Commissioners for Victims and Survivors and the relationship of a Reconciliation Forum to the Victims Forum is not made clear in the document.

2.10 Clearly, any redrawing of roles and responsibilities would need to be carefully and precisely reworked in order to minimise confusion about responsibilities and roles. This is a complex area of work and it requires an infrastructure which is streamlined, outcome-focussed and the resources dedicated to the task at hand rather than the bureaucracy. The end goal is to ensure that real change to a shared and better future, together with an emphasis on, better services and real support for those who have suffered most.

### 3. STRAND 2,3,4—TRUTH & JUSTICE

3.1 Council has a keen interest in the area of truth and justice.

3.2 Investigations and resolutions can help build confidence in the criminal justice system and deliver the justice that many families seek. The work of the Historical Enquiries team and the Police Ombudsman must continue as vehicles to attaining truth & justice; it is important supporting mechanisms continue to bring closure.

3.3 Council supports the premium of getting information and gaining confidence within the community and therefore supports an Information Recovery Processes. Confidence in this process will depend heavily on the co-operation by all those who have information to give.

3.4 Council accepts the principles that this work needs to continue but these recommendations replicate what is already happening elsewhere, and many will feel that the creation of new bodies will delay the truth recovery process. We also seek further information on the accountability and oversight structures of these strands of work. More information is required.

3.5 Council is concerned at the proposal that there should be no more public inquiries. This proposal is absolute and to close this avenue of addressing the past will create many dilemmas. It is important this option is still available to those who wish to pursue it. The Report should have made recommendations on how to manage future inquiries—as resources seem to have been a major factor in this recommendation.

3.6 Under thematic areas it is important public hearings are an option—in light of what may emerge from examinations it would be in the public interest to keep these issues transparent and open and to keep the public informed.

3.7 It is imperative these processes adhere to Human Rights standards.

### 4. THE RECOGNITION PAYMENT

4.1 Unfortunately, the issue of an acknowledgement payment has become hostage to a bitter public debate. The public reaction to the proposal from some quarters has only heightened feelings of outrage and disillusionment with the report in its entirety, and the consequence has been the withdrawal by the British government on any future action. Council does not have a fixed view on the appropriateness of an acknowledgement but we acknowledge the spirit in which it was conceived and recognise that the many different circumstances within the victims and survivors sector create difficulties for some. At the same time, we are also aware that this proposal would address real hardship issues for others. Their needs must be addressed and enhanced individual support should be considered through mechanisms such as the Memorial Fund.

4.2 This recommendation does not take those who have suffered physical injury and mental trauma into account and this has caused considerable upset and anger in some quarters.

4.3 Clearly allegations of leaking this aspect of the report to the media did not best serve the sensitivity of this issue, and has negatively impacted on attention to the rest of the report and the other 30 recommendations. It is important the rejection of this recommendation does not prevent a proper debate on the remaining recommendations.

### 5. REMEMBERING

5.1 Community Memorials—Council is particularly interested in the “shared space” debate. There is a need to remember what has happened during the conflict but it is how this is done within the context of shared space. Generic principles were set out for the planning and erecting memorials, however Council would have liked detailed guidance and criteria eg dialogue, consultation at community level (cross-community), who should be involved, what statutory organisations need to consider. Ultimately we need to create welcoming, accessible, good quality and safe spaces where people and communities do not feel excluded or isolated.

5.2 Societal Memorial—Council felt that the report should have made firm recommendations on how society remembers ie a memorial. The group was in a unique position in that it had been given authority to examine and make decisions on a way forward. Council believes the group should have developed a process, but unfortunately it has been postponed for future consideration.

5.3 Day of Reflection—Council is supportive of Healing Through Remembering’s Private Day of Reflection and of the process for making it a Public Day that allows everyone to participate. This is a process that has to be monitored and one which represents a marker for how society has moved forward.

## 6. TIMEFRAME

6.1 Council does not feel the proposed timeframe is realistic. We would urge the Committee to consider the reality that many victims and survivors have only recently come forward requiring support. This may become more apparent as victims & survivors receive new information on the circumstances of the deaths of family members as a result of historical enquiry and information recovery processes. There is a growth in the number of voluntary self-help groups being set up particularly to undertake befriending work (most noticeable in the West). In addition, ex-service groups (UDR, RUC, etc.) have increased in number over the past two years, requesting support for respite, befriending and welfare assistance. It is clear that, many new groups have been recently established, there remains a great need for support and resources to meet the needs of our community.

6.2 While Council agrees with the need to have a vision and an end goal we are also of the view that this process will not be completed in a single planned moment. Instead the process of dealing with the past will require continuing attention as well as delicate and sensitive handling. We therefore believe that any institution or Commission should make recommendations on future work at the end of five years rather than drawing an arbitrary line underneath uncompleted work. A monitoring and evaluation process might record achievements and outcomes in order to influence any further recommendations.

## 7. CONCLUSION

7.1 It is extremely important the relevant recommendations in the Report are closely examined and decisions made on their value for society. Council is hopeful that our involvement in this particular inquiry will make a positive contribution and look forward to engaging with the Committee in the future.

10 April 2009

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### Written evidence from West Tyrone Voice

## VICTIMS OF TERRORISM—NO STRANGERS TO HURT

### EXECUTIVE SUMMARY

- This report suffers from an absence of definition as to what a victim of terrorism is. Since it does not know what it is dealing with, it cannot, then, deliver a satisfactory conclusion that will benefit those victims of terrorism.
- The report refuses to differentiate between victims of terrorism and terrorists.
- The implied “moral equivalence” between “terrorist” and “victim of terrorism” is totally unacceptable, and it is this upon which the report is predicated, and on which it fails.
- The report’s authors have been taken in by the “double-speak” of republicans, and has produced a report that is full of “double-speak”, is dishonest, and, if its recommendations are accepted and implemented by HMG, does not bode well for the future.
- The unveiled attempt at re-writing history in such a way that all reference to “terrorism” is removed has been exposed.
- Hence, every other recommendation is tainted and seriously flawed, and ought to be rejected *in toto* by government and parliament, and by all groups working with the victims of terrorism.

### INTRODUCTION

This report comes at a critical time in the history of Northern Ireland, not just because the past is still very much with us, but because the IRA is becoming increasingly successful in its terrorist campaign. This represents another change in strategy by IRA terrorists, but with exactly the same ultimate goal and immediate results.

“Victims of terrorism” is the designation we use for ourselves, is commonly used in the EU amongst its victims groups, and finds an echo in the hearts of every innocent victim of terrorism in Northern Ireland. The adoption of the language of inclusion has blurred the edges around this concept, and has also excluded those innocent victims of terrorism from the process. Unless and until this situation is remedied, and an accurate definition of “victims of terrorism” adopted, the real victims, ie, of terrorism, will not receive the recognition, acknowledgement and support they deserve and require.

It is most disappointing that this report flies in the face of International law so far as an understanding of victims of terrorism is concerned. That this must be put right as a matter of urgency is essential and self-evident to those victims, but obviously not to government and its agencies.

The utterly offensive recommendations from the Consultative Group on the Past (CGP) are now known, their rejection being predictable. The fact that CGP did not see this is evidence of how far out of touch it was from reality, and with the way victims of terrorism feel about being paid-off by government and its henchmen.

Truly, victims of terrorism want a solution to the profound difficulties that they have suffered, right up to and including vicious terrorist murder. But that offered by Eames/Bradley is simply insulting and objectionable. To suggest that the innocent victims were equally to blame for the campaign of genocide and ethnic cleansing that we experienced; to say that we must forgive those who murdered our siblings and parents without genuine repentance and a commitment not to do the same again; and to ask us to leave off seeking for justice, is utterly false, and could only have come from republican terrorist supporters.

### 1. *Moral equivalence*

It is difficult to understand how a panel of supposedly intelligent people could conceive such a monstrous thing. The “moral equivalence” of innocent victims of terrorism and terrorists that this report, along with government, funding bodies and other do-gooders, draws, is nauseating in the extreme, and insults the precious memory of many good people murdered by PIRA & Co—the very people the report suggested should be paid £12,000 for their efforts! It is incalculably repugnant to decency, and is yet another futile attempt to re-write history, exonerate the terrorists for their years of sectarian killings, and sanitise everything that terrorists have visited on our people. No amount of spin or political argumentation can change the fact that not one victim of terrorism chose to become that, unlike the terrorists who took up arms against them.

It was hurtful for junior minister for victims, Jeffrey Donaldson, to describe both himself and his fellow junior minister for victims, Kelly, as having served in their respective armies—he in the UDR and Kelly in the PIRA—thus making the “moral equivalence” between the legitimate forces of the state and terrorists like PIRA, official government policy. Now Lord Eames has backed up Stormont official policy by claiming that there is no difference between the innocent victims of terrorism and those whose family relations suffered and died as a direct result of their evil activities. Mr Donaldson’s whimpering cuts no ice with those who witnessed his betrayal of victims.

This report proceeds on the assumption that there is no categorical or moral difference between terrorists and their victims. This insulting assumption has determined everything else that follows, to the detriment of all victims of terrorism, and ought to be rejected.

### 2. *Another government-friendly report!*

At the Ballymena meeting, our Director said to Robin Eames that his final report will reflect accurately prevailing government policy (both in London and in Belfast). This has proved to be the case. The people who are now accepted as having been legitimately engaged in a legitimate campaign of terror are now equated uncritically with those they murdered. The very people who have been elevated to the top and heart of the government of our country, and accepted as political partners by those who once spoke up for victims of terrorism and against terrorism, is an insult too far. How scandalous, immoral, objectionable and devastating is such a position. It came as no surprise that not one thing in this report contravened government policy in the least. The only reason why the £12,000 reward to be paid to terrorists was withdrawn was because it did not command communal support; the implication is that if it had done, the reward money would have been handed over.

The clear inclusivity of the process and approach adopted by this report is indicative of government policy, and the only instance where they departed from this was their decided exclusion of victims of terrorism from the panel. When this was admitted by the team, no one was surprised, but many felt insulted.

This Group, despite repeated testimonies from the victims of terrorism, did not appreciate or understand where they were coming from, but decided to ignore these heart-rending stories. It is incontrovertible that this Group decided to go along with the terrorists, and to reject their victims. One suspects why this is the case.

### 3. *End to public enquiries and denial of justice*

London has been looking for a face-saving way to end public enquiries—the report has handed this on a plate. The report also claims that the pursuit of reconciliation is inconsistent with the pursuit of justice. On what basis is this reckless claim made? Given the number of churchmen on the panel, it is amazing that they, of all people, did not understand that in the Judeo-Christian religion, these are Siamese twins! Because of their inaccurate thinking, they have posited a scenario that precludes victims of terrorism even getting justice for the murders of their family members. This is unacceptable.



#### 4. *Amnesty*

Those in office in Belfast desired a report that would preclude bringing an action against PIRA/SF; this report is not giving terrorists an amnesty, but it is offering them immunity from prosecution for the admissions they make—call a rose by any other name. The recommendation not to pursue the “on the runs” in the interests of reconciliation is both undemocratic and offensive. A *de facto* amnesty is recommended by this report, and must be opposed by government and by all decent people.

#### 5. *Hand picked team of safe hands!*

Our Director also said at the consultation meetings, that those on the panel were very carefully chosen by government to ensure that its agenda would be fulfilled. That has also been accomplished. This team provided “safe hands” so far as government policy in Northern Ireland was concerned, but “safe hands” that lacked judgement reference innocent victims. CGP took a strategic decision to exclude victims of terrorism from membership of the panel, because victims of terrorism just do not count for anything in their eyes!

#### 6. *Not victim-centred*

The report claimed to be victim-centred yet it did not understand what a victim is, hence this obnoxious, grossly insensitive and offensive report. This is an acceptable offering to those who commissioned this report, but is an attack on true democracy, on communal decency, and on those families and individuals who still carry the pain of having a relation murdered by terrorists, or injured by them! Had victims of terrorism been included on this panel, then it could have been argued that it was attempting to be victim-centred; but these victims were deliberately excluded by a group that places so much emphasis on inclusivity. To exclude the victims of terrorism from exploring ways of dealing with the *past* points to their exclusion from defining what kind of *future* they would like to see.

#### 7. *Church involvement*

Given the clergy and religious people on the team, the depth of insensitivity shown is unsurpassed. The hurt and anger caused so far is rising in the hearts of the victims of terrorism, and is incalculable. The various church authorities ought to call clergy members in for questioning for their insulting behaviour, for this report has inflicted further suffering upon an already hurting people. If the churches represented on the CGP remain silent about this disaster, or do not discipline these offending clergy and church members, then they too will be condoning what this quango has said, and are therefore implicated in their offending behaviour.

#### 8. *£12,000 for every victim family?*

Victims are not so easily bought off; we do not come at any price; we are not the lackeys of government. To have accepted this is to grant legitimacy to every murdering thug that acted in Northern Ireland, or who operated from, and returned to, the Irish Republic. Getting justice for the victims of terrorism is infinitely more important than a measly £12k? Victims are reeling at what they have heard, and rightly so. The very fact that CGP even considered paying £12,000 to terrorist family members for murdering our family members is further evidence, if any was needed, of a serious lack of judgement on its part, and on the party of the three victims commissioners who supported this recommendation. It is noted that three of the victims commissioners have supported this payment, and only one came out against it. This raises serious questions about the judgement of these commissioners, confirms our lack of confidence in them, and leaves them a “no go” area for WTV.

And this consultative group thought that it was working towards their healing and recovery!

We are glad that HMG has removed this recommendation, but are concerned that the others are still in place.

The inclusion of this insulting recommendation is a tried and tested government policy: a totally obnoxious recommendation is included for public consumption, with the intention that when this is withdrawn, the other equally unacceptable recommendations are then presented as being “not too bad”, and therefore “acceptable” to people. In our view, all these recommendation should be rejected *en bloc*.

#### 9. *Language issue*

The almost exclusive use of inclusive language is unacceptable to the victims of terrorism, and underpins everything the report says. This has the nasty effect of excluding those who do not wish to be coupled together with their enemies. To exclude these victims from any future process might well be the underpinning logic behind the report, because their analysis of the situation—past and present—is at variance with that held by the governments and their agencies.

Not only is inclusive language offensive to the victims of terrorism, it is woefully inaccurate and therefore inadequate to describe the real context that is Northern Ireland. The authors see no place for the language of differentiation, because they do not believe that is any differentiation to be made between victim of terrorism and the terrorists.

WTV believes that both must be used appropriately, and to equate victims with terrorists is totally inappropriate. Sadly, for the authors of this report, nothing exists but inclusivity.

#### 10. *The five year legacy commission, justice issues and remembering*

This is yet another quango, and who selects its membership is left unstated, probably because HMG will do this. The involvement of OFMDFM means that terrorists are to help in implementing these initiatives/strands. The involvement of terrorists in anything to do with the victims of terrorism or Northern Ireland is objectionable. In our view, any such commission CANNOT act as a champion for “society issues”, including those concerning victims of terrorism. This means that the newly, and illegally appointed victims commission, will be “stood down” because it was to act as a champion for victims. For any initiative that involves terrorists working “for” victims of terrorism will require a massive C-change in victims’ thinking, a change that is extremely remote.

The ineffective money-wasting HET is also to be stood down, under this recommendation; if experienced police officers were unable, or possibly not allowed to, bring to justice known terrorist criminals, how will any new quango, or “independent unit”, do this? See under “Amnesty”.

The further promotion of “voyeurism” under “remembering” is worrying because non-victims with an unhealthy interest in these very personal matters will want to become “experts” and promote themselves around the world as “experts” in victims work, a practice that is currently being followed.

The CVSNI is a lame duck that is incapable of rendering any service to the victims of terrorism, given its clear terrorist-friendly membership and direction. It might be best to have it “put down” so spare more pain for everybody.

“Remembering across society (is) a mean of achieving reconciliation”, is factually wrong.

Victims of terrorism do not need a day of reflection in Northern Ireland that is organised by those who see no difference between terrorists and the victims of terrorism—they observe the EU Day of Remembrance for the Victims of Terrorism each year on 11 March.

Given that the special circumstances of Northern Ireland can be defined in terms of the terrorist campaign for the past four decades, how this can be remembered in a positive way defies understanding.

#### *Does Northern Ireland have a government, or is it just a legislative assembly?*

To expect the “corporate liars” that constitute terrorist organisations to sign up to what promotes their ultimate goal of a united Ireland is easy, since they will sign up to anything that, in their view, promotes that long-cherished goal. Mass murderers and child killers will put their names to whatever is compliant.

We do not want our murdered loved-ones to be in any way associated with any “shared memorial” set up officially, that will inevitably include the names of those who murdered him and his many security force colleagues. Such indecency is evidence that CGP was working to a republican agenda, and ought to be rejected in toto.

#### 11. *Independent? of what?*

We ask, in what respect can this report and its author-group now claim to have been independent? Independent of what? Of knowledge? Experience? Sensitivity? Courage to do the right thing by victims of terrorism? Independent of International law? Of the whisperings of the Stormont *polit bureau*? Of common sense? The convergence between this report and prevailing Stormont policy is impossible to miss.

It is also evident that CGP is independent of intelligence and is mathematically challenged because its remit is to work out how to approach events of the past 40 years; yet the Omagh bombing has been deliberately excluded, and not a few of our members were bereaved and injured in that terrorist atrocity.

For the IRA, the root cause of the “conflict” was the “border”. The “border” issue still has not been resolved to the IRA’s satisfaction, therefore the root cause has not been dealt with, and so the potential of a return to terrorism remains, as recent sad events have demonstrated.

#### 12. *Conclusion*

WTV is enraged, though not surprised, that CGP gave so much store to the views of militant republicanism, to the detriment of the views of the victims of terrorism. This is reminiscent of the mantra used by Hitler as he built up his murder machine in Germany in the 1930s, when all along he spoke of “peace”. Even during WWII, he spoke passionately of “peace”—just as their counterparts in Northern

Ireland—PIRA & Co—have done. The people of Germany listened to, and believed what Hitler was saying—to the detriment of Europe. Those who are listening to, or even giving an ear to, what republicans are saying, namely Eames/Bradley & Co, are falling into exactly the same trap, with the same dire consequences for our people. The strategy used by republicans prior to the Maze Escape in 1981 was also about massaging egos, and deceiving the authorities, with a most predictable result. This has been going on in republican circles, where they have been, and are, killing the people with kindness. Anyone who believes their premeditated deception is worse than a fool!

The recent and “unanimous” condemnation of the three terrorist murders by the IRA has been given world-wide acclaim by those who do not understand how republican terrorists think and behave. To hear the IRA’s spokesmen condemning what they are intensely proud of in their own terrorist campaign, is proof of their dishonesty and double-speak.

WTV is utterly disgusted, angry, and deeply offended by this report, because it has been taken in by similar dishonesty and double-speak. We therefore call on the entire victims of terrorism community in Northern Ireland, and the parliament in London, to reject these recommendations *en bloc*.

*Dr J E Hazlett Lynch*

Director

8 April 2009

## APPENDIX

### HOW DO I TELL MY CHILDREN WHAT HAPPENED TO THEIR UNCLE?

The notorious Eames/Bradley Report on the Consultative Group on the Past, in the section on “sectarianism”, highlights the failure of “past generations to effectively address the prolonged antagonism that infected every institution and sector in our society. This in turn ensured yet another generation suffered from and added to the pain and hurt of the past”.

As I pondered on this point, I found myself imagining being asked by a son, some very hard-to-answer questions. Given that we are now in “a new dispensation”, and don’t want to prolong or add to the hurt, we better change the way we tell our story!

How do I explain to the next generation why my brother, and their uncle, is no longer with us? What do I tell them? That he simply “died”—the Historical Enquiries Team’s preferred language? That he was killed—but how? Oh, somebody shot him? A bad man shot him. Oh, actually three bad men shot him. In the back. He and two colleagues died in the shooting.

“Was my uncle doing something wrong?”

“No. He was a policeman doing his duty to the public”.

“Why was he shot, if he was doing good?”

“Well, the three gunmen didn’t really want to do it. They thought your uncle was doing wrong, so they, being the good citizens they were, thought it best to get rid of these three “wrong-doers”. The three gunmen were really good men who murdered, sorry, killed, your uncle, but we have to get over it, and look to the future, and not allow his death to hold things back now”.

“Did the police ever get anyone for his murder?”

“No one. Police are good people, and they probably considered that the gunmen were probably doing good when they shot the three policemen whom the gunmen saw as ‘bad men’, maybe even ‘terrorists’, ‘murderers’. Anyway, they were in an area that did not like the police, so they shouldn’t have been there in any case”.

“But you said they were doing good, doing their police duty”.

“Yes, but they shouldn’t have been in an area where the local people, who are good people, didn’t want them”.

“Will anyone ever be got for their murders?”

“Hardly. The police have now come to see that the gunmen are really good men, and that the three policemen were not as good as they thought; therefore they have decided to let the gunmen go. Anyway, some of the friends of those who shot your uncle are now in government in Northern Ireland, and we don’t want to upset them, or the country. It would not be ‘in the public interest’ to bring them to justice”.

“Do you mean that we got it all wrong about these gunmen and their friends all along?” “That’s right. They were basically good men who did a few wrong things in the past, you know, like you and I, and made a few mistakes, but that’s all in the past”.

“Senior people in Northern Ireland, over the years, used to tell us how bad these people were, that they should be arrested and put behind bars, and dealt with through the courts. Our leaders even called them ‘terrorists’, can you believe it? They told the people that they would never be fit for government because they were terrorist murderers; but clearly they were ill-advised, mis-informed, and deceived by advisers”.

“Thankfully, they have changed their minds about them, and now see them as good decent people, who, as I said, made a few wee mistakes in the past, but we mustn’t hold that against them now—we have peace, after all! Things really are different now!”

“So we just have to get over it, and accept his murder, and say nothing about it!”

“I guess that’s about it. Its best to leave the past in the past, for the sake of peace, and to not disturb some people who might go back to doing what they know best”.

#### COMMENT

This is the kind of thing we are being told to tell future generations by people like Eames and Bradley. We are not to use accurate language to describe the past, and certainly to suggest that those who carried out murders were terrorists, is away off the mark.

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### Written evidence from Jim Allister QC MEP

#### 1. SUMMARY OF MAIN POINTS

- The recommendations of the CGP are fundamentally flawed because the definition of “victim” which they adopt is totally unacceptable. This pollutes the Report in its entirety.
- While many have welcomed the Secretary of State’s announcement that the recommendation to award a £12,000 payment to the nearest relative of all those killed during the Troubles will not be implemented I believe it would have been better if the payment was made to innocent victims while those who died while engaged in criminality were excluded.
- The crimes committed during the Troubles should be a matter for the criminal justice system. The Legacy Commission proposed by the CGP would be totally unsuited to perform the functions envisaged for it.
- The Quigley-Hamilton recommendations should not, as the CGP suggests, be incorporated into statute. They are an unwarranted and unnecessary sop to terrorists and an insult to innocent victims. Secondly, they perpetuate the IRA myth that there is a difference between terrorism and “ordinary” crime.
- I reject any suggestion of a shared memorial or shared day of reflection.
- There should be no question of an amnesty for terrorists.

#### THE SPECIFICS OF THE REPORT

##### *Chapter 2—Developing a Road Map for the Future*

2. *“A reconciled society takes collective responsibility for the past instead of attributing blame and avoiding responsibility”* (page 50).

This sentence could have come straight out of a Sinn Féin policy document which attempts to suggest that everyone is to blame for the Troubles and the finger should not be pointed at those responsible—the terrorists who took up the gun and the bomb. Only an insurrectionist and criminal minority in Northern Ireland engaged in terrorism and violence. This statement it is an insult to the vast majority of the Province’s population who were and are law-abiding.

3. *“The past should not be allowed to continue to shape the future in a way which is unhelpful and divisive”* (page 56).

Again the thinking behind this statement is pro-terrorist. The implication is that one who opposes the elevation of Sinn Féin/IRA to government because of their involvement in violence is being “unhelpful”. The innocent victims of the Troubles should never be forgotten. Nor should the fact that people who now hold Ministerial office made them victims. The uncomfortable realities of the “peace process” should not be swept under the carpet.

4. *“Since NI now has a justice system as worthy as any other society, and will soon have more local control over it, people who claim justice from the system cannot have their claims denied”* (page 57).

To suggest that victims are more likely to have their claims for justice met when policing and justice powers are devolved to Stormont is quite simply ludicrous. No terrorist inclusive executive is going to pursue those of their own who spent 30 years killing and maiming the people of Northern Ireland.

5. *“Many people privately felt that drawing a line in some way might be the best way forward but could not bring this out publicly because members of their community were still pressing for prosecutions of the ‘other side’”* (page 58).

- (a) Many in Northern Ireland have been profoundly disturbed by the suggestion that there were those who said one thing to the CGP behind closed doors and another to the public. Since the Report’s publication, Jarlath Burns of the Eames/Bradley Commission has alleged that prominent Unionist politicians, who have publicly protested about the contents of the report, were supportive in private.<sup>1</sup> It is appalling if some, for the sake of public consumption and approval, have trotted out condemnation while all the time encouraging Eames/Bradley down this path. This truly would be duplicitous.
- (b) Under no circumstances should the Committee give any credence to this point in the Report. Those who express one view point in private and another in public deserve nothing but contempt.

6. *“[The Group] recognises that the very demand for justice can mitigate against the main goal of reconciliation.... A long and determined pursuit of penal justice could be viewed as a means of continuing the conflict rather than enabling healing”* (page 58).

- (a) Innocent victims will be outraged by this suggestion. Justice is a fundamental in any society. Indeed, this passage of the report flies in the face of the passage quoted in Paragraph 4 of my response. How can the Report’s authors simultaneously argue that *“people who claim justice from the system cannot have their claims denied”* (page 57) and also say that a pursuit for justice has a negative impact upon society?
- (b) Secondly, those who seek justice for their loved ones will be grossly offended by the suggestion that their demands are a *“means of containing the conflict”*. It is internationally recognised that obtaining justice for those who suffered unjustly is a key aspect of bringing closure to the victim and enabling healing. The fact that criminals have been allowed to get away with their actions is often the most difficult aspect of the entire process for victims.

### Chapter 3: The Conflict and Society

7. When discussing Republicans the report states: *“Lives were lost in the course of active service. Many thousands spent years in prison; their families were inevitably affected and their suffering was rarely noted outside their own community”* (page 63).

- (a) The use of the term *“active service”* to describe terrorists engaged in murderous criminality in a press release issued by OFMDFM, when a member of the Victims’ Commission was discussing how her brother lost her life while attempting to murder, has already provoked huge outrage among innocent victims in Northern Ireland.<sup>2</sup> Its use suggests that terrorists were military personnel engaged in a war rather than the reality – vile terrorists bent on murder and mayhem. I deeply regret that the CGP has, by employing the term, sought to sanitise the murders of Republican terror squads.
- (b) Secondly, to highlight what the Report describes as the *“suffering”* of the prisoners would also be deeply offensive to those who lost loved ones at the hands of terrorists. While innocent victims were cut down without warning, those who were arrested and served time were, scandalously, treated differently from *“criminal”* prisoners, being allowed to wear their own clothes and freely associate with other prisoners on the wings, and ultimately, and shamefully, released under the Belfast Agreement.

8. When talking about members of the security forces the report states: *“They were emphatic that history should not reflect any equivalence between the actions of terrorists and the response of the forces of law and order”*. (page 64).

I fully support this point which was evidently the unanimous position of the security force personnel who gave evidence to the CGP. Sadly the CGP has rejected this suggestion. The shared day of reflection (page 100), suggestions about a shared memorial (page 103), the proposed £12,000 payment to all who lost relatives during the Troubles, etc all make it evident that the CGP disregarded this position and refused to draw a distinction between those who fought to uphold the rule of law and those who opposed it.

- 9. (a) On pages 66 to 68 the CGP Report deals with victims’ issues. It is here that the core of the problem with this Report can be found. Without a proper definition of *“victim”* all of the recommendations relating to that group will be flawed.
- (b) I deeply regret that the Report’s authors saw fit to accept the definition contained within the 2006 Victims and Survivors Order. I repudiate this definition as it defines a victim or survivor as someone who is or has been physically or psychologically injured as a result of or in consequence of a conflict-related incident, thus puts the terrorist injured by his own bomb on a par with the innocent victims of Enniskillen, Claudy and La Mon. The primary blame for this definition lies with those who introduced it and the failure of the devolved administration to do anything to

rectify it but ultimately the CGP are responsible for accepting this flawed definition. This is to its eternal shame. If they had really wanted to help victims they would have recommended change to this statutory definition.

10. *"In the course of the consultation a number of people drew attention to the difficulties experienced by those with conflict-related convictions. In particular, ex-prisoner groups noted that applying for jobs, obtaining a mortgage and even lesser forms of credit are problematic where the applicant has a criminal record. Many expressed a desire to put their past, and the actions they committed as part of paramilitary organisations, behind them and to lead normal lives. Some wanted to give something worthwhile back to their community. The implications of their criminal record for conflict-related offences make it difficult to secure a permanent occupation and so provide for their family."*

*"The Group is persuaded that more should be done to allow those with conflict-related convictions to become integrated into society by affording them equality of access to jobs, goods and services. Many have played active and positive roles in conflict transformation"* (page 81).

- (a) I have long been an opponent of terrorist convicts being treated differently from others convicts when it comes to employment.<sup>3</sup> The murders, robberies and other crimes committed by terrorist organisations – both Republican and Loyalist – should be treated as the crimes they really are. This recommendation, as with so many others in the report, would if implemented help to legitimise and sanitise terrorism.
- (b) The suggestion that many former prisoners have *"played active and positive roles in conflict transformation"* is grossly offensive to those who suffered at the hands of terrorists. The Report ignores the fact that if former prisoners and their colleagues who evaded capture had not engaged in violence we would not have had a conflict in the first place! Secondly, the lauding of former prisoners like Gerry Kelly and Martin McGuinness for their supposed role in *"conflict transformation"* is deeply upsetting to many who suffered during the Troubles.
- (c) As a future deterrent it is right that resort to terrorism should bear a life-long disincentive. To remove from a terrorist the price of his voluntary pursuit of terrorism, while his victim has no life to lead, would be a further monstrous injustice.

#### Chapter 4 Victims and Survivors

11. *"One important part of the work of the CVSNI will be the establishment of a Victims and Survivors Forum. Although this will initially face some resistance from those who do not want to interface with groups traditionally hostile or at least suspicious of each other, it will be the best place to begin to address the process of reconciliation"* (page 89).

- (a) The CGP's views on the Forum are, frankly, insulting. Innocent victims oppose being grouped with those who made them victims. Paragraph 20 of OFMDFM's *Outline Draft Strategic Approach for Victims and Survivors* states that the Forum must *"be representative of victims and survivors"*. The present iniquitous statutory definition of victim means perpetrators of terrorism will have parity with their victims. This is obscene and innocent victims are quite correct to oppose it. It would have been much better if the CGP had taken a stand for innocent victims instead of expressing a hope that their position will change over time.
- (b) It is important to note that Martin McGuinness will play a key role in the establishment of the Forum (the Commission is required to *"obtain the First and deputy First Minister's agreement to the costs of the work programme"* (*Outline Draft Strategic Approach for Victims and Survivors*, Paragraph 22). McGuinness, by his own admission, was a commander in a terrorist organisation.<sup>4</sup> How can any innocent victim have any confidence in such a system?

12. I cautiously welcome the Secretary of State's announcement that the proposed £12,000 payment to the nearest relative of all those who met their deaths during the Troubles (pages 90–94) will be dropped. However, it would have been much better if the Secretary of State had decided to award the payment to innocent victims while excluding terrorists. This would have laid down a clear marker that there is a difference between innocent victims and terrorists.

#### Chapter 5 Remembering

13. *"People should [not] necessarily undertake the process of telling and listening to stories in the presence of those whom they believe are responsible for their hurt. Rather, those involved in storytelling should accept the importance of all sectors of society telling their stories. How and when this acceptance develops into active listening and understanding is an issue for each individual to address. While it is this listening which could ultimately help contribute to reconciliation in our society, such a process will not be easy for those who have experienced great suffering during the conflict."*

*“Individuals participating in storytelling projects must be able to tell their story freely in a private context, but should be able to omit information which may put them at risk—either from prosecution or retaliation—before their story is put in the public domain”* (page 99).

- (a) This is another adoption of an IRA/Sinn Féin proposal, propagated as their best means to rewrite history. I reject it.
  - (b) The closet amnesty which it contains is repugnant.
  - (c) Innocent victims want and deserve justice, not story telling.
14. (a) Innocent victims will be deeply offended by the proposed “shared day of reflection”. The suggestion that there is some sort of parallel between acts of Remembrance on 11 November and celebration of an Uprising on Easter Sunday is outrageous. Easter Sunday is a day when Republican terrorists are commemorated while 11 November is a day when those who died in the fight for freedom in two world wars and, indeed, those who died to defend freedom in more recent conflicts, are remembered.
- (b) The suggestion that the First and deputy First Ministers could jointly address the Assembly on an agreed date (page 101) is also unacceptable. The deputy First Minister remains unapologetic about his role in a terrorist organisation and is therefore supremely unfitted to lead tributes to those who suffered and died during the Troubles.<sup>5</sup>

15. The proposal that at some time in the future a shared memorial could be created (pages 102 to 105) is something which all fair minded people will reject. No one could reasonably expect Michelle Williamson to be happy about her parents who were killed in the Shankill bombing being commemorated alongside Thomas Begley who was killed planting the bomb. I submit that this proposal, like the entire Report, should be binned as it draws no distinction between victim and perpetrator.

#### *Chapter 7 Legal Processes: The Arguments for Change*

17. *“On the basis of its consultation, the Group does not believe that the present legal processes are fully meeting society’s needs. There is a tendency to re-fight the conflict through the courts; to pursue truth through litigation; to deal with the past without a perspective for the future.*

*“Public inquiries have proved protracted and expensive with a narrow focus on a very few cases. The issue of the promised Inquiry into the death of Patrick Finucane remains unresolved.*

*“The Police Service of Northern Ireland (PSNI) has found it increasingly difficult to service the demands of historical inquiries. While both the Historical Enquiries Team (HET) and the Police Ombudsman’s Unit are dealing with historical cases, such investigation has become an increasing burden on both the PSNI and the Police Ombudsman respectively. Neither the PSNI nor the Police Ombudsman can build for the future if they are burdened by the past”* (page 124).

- (a) The pursuit for truth and justice in relation to crimes committed during the Troubles should now be an exceedingly easy task as the political wing of the IRA now supposedly supports the criminal justice system in Northern Ireland! One cannot be said to support the rule of law and conceal knowledge of unsolved crimes. So, those who now hold government office could solve multiple crimes at a stroke. However, hundreds of IRA murders in Northern Ireland remain unsolved and will remain so, not just because Eames/Bradley wants to move away from the pursuit of justice but because it is no longer politically expedient to pursue the terrorist killers of a party of government.
- (b) Any attempt to take the investigation of crimes committed during the Troubles outside the criminal justice system will be resolutely opposed by victims who still demand their right to a day in court.

18. While recognizing the burden which investigating historic cases places upon the PSNI and Police Ombudsman’s Office I am deeply concerned about the proposal to remove the investigation of historic cases from the PSNI and give it to the proposed new Legacy Commission. This would represent an unwelcome attempt to take the investigation of crimes committed during the Troubles out of the remit of the criminal justice system.

19. *“At the end of its mandate the Commission would make recommendations on how a line might be drawn so that Northern Ireland may best move to a shared future. This might embrace a procedure whereby historical cases, including those against ‘on the runs’, would no longer be actively pursued”* (page 126).

*“An amnesty now would have the advantage of removing some of the anomalies and inconsistencies in the handling of historical cases. It would avoid some of the expense of a new mechanism. It would allow greater focus on information recovery. It would take account of the fact that the chances of successful prosecutions in historical cases are fast receding. It would avoid problems arising from criminal case reviews. It might be one way of encouraging society to move on.*

*“An amnesty may not necessarily contravene rights under the European Convention of Human Rights (ECHR) if there are exceptional circumstances surrounding the peaceful resolution of a conflict. But the current jurisprudence of the European Court of Human Rights (ECHR) and the developing practice of international law points strongly against amnesties.*

*“The Group has concluded that a general amnesty would not be appropriate in the present situation. Many families may need to adjust their expectations of criminal justice. But there was a strong view expressed by both politicians and victims in the Group’s consultation that the route of investigation and prosecution should be kept open.*

*“The Group accepts this argument but recommends that the proposed Commission should make recommendations on how a line might be drawn at the end of its five-year mandate so that Northern Ireland may best move to a shared future” (132).*

- (a) Were it not for the furore provoked by the £12,000 payment this would, undoubtedly, have been the one proposal which would have produced an explosive reaction. Imagine the outcry if, a decade after the war, it had been proposed that Nazis involved in the Holocaust who fled to South America should no longer be perused. Yet a proposal tantamount to that has been put forward by the CGP. This is totally outrageous. It would be utterly unacceptable anywhere else in the United Kingdom and so it is in Northern Ireland. All criminals should be perused by the forces of law and order until they are brought to justice.
- (b) However, it would be a mistake not to recognise that the Provisional Movement has been given a de facto amnesty by those who have deemed them fit for government.
- (c) I do not share the CGP’s view that an amnesty may not contravene rights under the European Convention of Human Rights. Article 13 clearly states that “Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority”. The most basic and fundamental human right is the right to life (“Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law”, ECHR Article 2).<sup>6</sup> Terrorists in Northern Ireland deprived over 3,000 people of this right.<sup>7</sup> It is scandalous that the CGP should seek to deny them justice.

#### *Chapter 8 The Legacy Commission*

20. I could not support the Legacy Commission as outlined by the CGP. It seems to me that the body will be totally unsuited to perform the role envisaged for it (ie to help reconciliation, review and investigate historic cases, conduct a process of information recovery and examine linked or thematic cases) because :

- (a) the Commission will be jointly appointed by the London and Dublin Governments. Dublin should have no role in this process because it should have no jurisdiction in Northern Ireland and, indeed played an active role in harbouring Republican terrorists during the Troubles and
- (b) the Report suggests that the approval of the First and deputy First Ministers should be sought before the Commissioners are appointed (page 136). The farce surrounding the appointment of the Victims’ Commissioner(s) should have made this obvious.

21. *“During its consultations the Group met with some representatives of some of the Omagh families and, as with other victims and survivors of the conflict, were moved by their suffering and their efforts to secure justice. The families the Group met did not want the Group to bring the Omagh case within its process and the Group respects this. The Group has taken the Agreement (Belfast) as the end limit for its definition of a historical case, although that would not prevent cases falling after that date, which are closely linked to historical cases, being dealt with by the new Commission” (page 155).*

I fully support the campaign of the Omagh families to obtain justice for their loved ones. However, I believe that other victims are also entitled to this. This section makes it clear that the CGP do not envisage the new Commission being able to deliver this. The Commission is obviously, therefore, proposing to continue the process which will see us move from an effort to obtain justice for victims to a selective information recovery process.

#### 22. On the Runs

*“This is a sensitive issue on which the Group has sought to find a way forward. But it is difficult to devise a scheme which both preserves the spirit of the previous solution and avoids the criticisms levelled against the Northern Ireland Offences Bill. If a privileged procedure is accorded to one group of people accused of crimes relating to the conflict, it would be difficult to deny that procedure to others accused of conflict-related crimes.*

*“The case for a special solution is also weakened by the fact that prima facie evidence of criminality exists in respect of relatively few people classified as ‘on the run’. In the case of ‘on the runs’, the Group therefore proposes that, if there was sufficient evidence, a case should be referred to the DPPNI on whether to proceed to trial in the normal way.*

*“However, the Group envisages, as outlined in Chapter 7, that the proposed new Commission should make recommendations on how a line might be drawn at the end of its five-year mandate; and that this might embrace a procedure for dealing with historical cases in respect of ‘on the runs’” (Page 157).*

Again, it is difficult to see these proposals as anything other than an attempt to whitewash terrorists and allow them to get away with their crimes. Any amnesty for OTRs, under whatever guise, is totally unacceptable.



## CONCLUSION

23. It is my belief that the CGP has shown itself to be a miserable failure. Its recommendations have done nothing to heal the hurt of innocent victims. Indeed they have only served to open up raw wounds. The outcry which greeted the Report's publication demonstrated that its recommendations patently do not command support among innocent victims.

24. While the proposed £12,000 payment provoked the most vocal opposition, when one looks at its other provisions it is evident that they are based upon the same flawed premise that there should be no distinction between the terrorist and the innocent victim.

25. It is therefore my belief that the Report should be binned in its entirety.

## NOTES

<sup>1</sup> *Unionists "dishonest" on report*, BBC 1.2.09 [http://news.bbc.co.uk/1/hi/northern\\_ireland/7863686.stm](http://news.bbc.co.uk/1/hi/northern_ireland/7863686.stm)

<sup>2</sup> *"Volunteer" row rocks Victims' Commission*, News Letter 30.1.08  
<http://www.newsletter.co.uk/news/39Volunteer39-row-rocks-Victims39-Commission.3723610.jp>

<sup>3</sup> *Allister slams OFMDFM silence*, press release 14.6.07  
<http://www.jimallister.co.uk/default.asp?blogID=669>

<sup>4</sup> *Profile: Martin McGuinness*, BBC 29.4.01 [http://news.bbc.co.uk/1/hi/northern\\_ireland/1303355.stm](http://news.bbc.co.uk/1/hi/northern_ireland/1303355.stm)

<sup>5</sup> *McGuinness: "I would have killed"*, BBC 23.2.08 [http://news.bbc.co.uk/1/hi/northern\\_ireland/7260541.stm](http://news.bbc.co.uk/1/hi/northern_ireland/7260541.stm)

<sup>6</sup> *European Convention of Human Rights*, <http://conventions.coe.int/treaty/en/Treaties/Html/005.htm>

<sup>7</sup> McKittrick, David, Seamus Kelters, Brian Feeney, Chris Thornton and David McVea. *Lost Lives* page 1534 Mainstream Publishing, Edinburgh, 2004.

10 April 2009

## Written evidence from the Commission for Victims and Survivors

### SUMMARY

The Commission for Victims and Survivors has a responsibility to respond to the proposals of the Consultative Group on the Past as a result of its statutory remit to promote the interests of victims and survivors and its duties and powers, including the right to advise government;

The publication of the Consultative Group on the Past report and recommendations has led to a number of problems and the Commission for Victims and Survivors believes a viable formula must be found to address these;

The Commission for Victims and Survivors seeks to contribute to the development of a viable formula, to facilitate reflection on the Consultative Group on the Past recommendations and to construct a formula based, on broad agreement, for dealing with the past;

The Commission for Victims and Survivors aims to seek views on the Consultative Group on the Past recommendations and the extent to which meet the aims of the Outline Draft Strategic Approach for Victims and Survivors published by the Office of the First Minister and deputy First Minister.

There cannot be an operational gap between current provision in the review of historical cases and any future arrangements;

Further dialogue is needed to build upon the opportunity that exists, based on the recommendations of the Consultative Group on the Past to address the needs of victims and survivors.

### 1. THE COMMISSION FOR VICTIMS AND SURVIVORS

1.1 The Commission for Victims and Survivors (the Commission) was established in June 2008 under the Victims and Survivors (Northern Ireland) Order 2006, as amended by the Commission for Victims and Survivors Act (Northern Ireland) 2008.

1.2 The Commission is a Non-departmental Public Body (NDPB) of the Office of the First Minister and deputy First Minister (OFMDFM). The principal aim of the Commission is to promote the interests of victims and survivors.

1.3 The statutory duties of the Commission include:

- Promoting an awareness of matters relating to the interests of victims and survivors and of the need to safeguard those interests.

- Keeping under review the adequacy and effectiveness of law and practice affecting the interests of victims and survivors.
- Keeping under review the adequacy and effectiveness of services provided for the victims and survivors by bodies or persons.
- Advising the Secretary of State, the Executive Committee of the Assembly and any body or person providing services for victims and survivors on matters concerning the interests of victims and survivors.
- Ensuring that the views of victims and survivors are sought concerning the exercise of the Commission's functions.
- Making arrangements for a forum for consultation and discussion with victims and survivors.

1.4 The general powers of the Commission include:

- Undertaking or commissioning research or educational activities concerning the interests of victims and survivors.
- Issuing guidance on best practice in relation to matters concerning the interests of victims and survivors.
- Compiling information, providing advice or information and publishing research or advice on any matter concerning the interests of victims and survivors.
- Making representations to any body or person concerning the interests of victims and survivors.

1.5 The Commissioners are Patricia MacBride, Brendan McAllister, Bertha McDougall and Michael Nesbitt. The interests of victims and survivors are at the centre of all the work of the Commission. The Commission wishes to work collaboratively with individual victims and survivors and with groups who serve victims and survivors to assess their needs and improve services provided to them. It has met informally with the Committee in Belfast in May 2008.

## 2. INTRODUCTION

2.1 The Commission welcomes the opportunity to provide evidence to the Committee regarding the feasibility of implementing the proposals of the Report of the Consultative Group on the Past. We wish to set out our response under three headings:

- CVS proposals for facilitating dialogue on dealing with the past.
- Future provision for victims in Northern Ireland.
- The operational implications for the bodies currently overseeing the review of historical cases.

## 3. CVS PROPOSALS FOR FACILITATING DIALOGUE ON DEALING WITH THE PAST

3.1 In keeping with our statutory role, the Commission's aim is to promote an approach to dealing with the past which upholds the interests of victims and survivors.

3.2 The Commission's responsibility to respond to the Consultative Group's proposals has the following basis:

- Our statutory remit to promote the interests of victims and survivors and our duties and powers, including the right to advise government.
- OFMDFM policy on victims, which holds that there is an inter-connectedness between serving present need, dealing with the past and building the future. The policy also asserts that the Commission should involve victims in dealing with the legacy of the past.
- Our work programme, approved by Ministers, which states our intention to advise them on dealing with the past.

3.3 The publication of the CGP report and recommendations has led to a number of problems, including the following:

- An initial focus on the recommendation to make a recognition payment of £12,000 to the next of kin of those killed as a result of the conflict caused initial widespread negative reaction and created conditions where many elements of the report were left unexamined. We believe that explanation of the recommendations in their entirety needs to be undertaken to allow public debate to take place.
- The resultant announcement by the Secretary of State that he would not implement that particular recommendation, in the near future at very least, contributed to a concern about the status of the report.
- There has been a lack of endorsement by the First and deputy First Minister.
- It is unclear to whom ministerial responsibility for implementation of recommendations will fall. That creates additional uncertainty as to whether implementation will take place or be held as a hostage to fortune depending on the prevailing political climate.

3.4 The Commission believes that a formula must be found which addresses these and other difficulties associated with the CGP report. The Commission will seek to contribute to the creation of a formula which is viable. Viability could be understood as having the following elements:

- The support of victims and survivors of the conflict.
- Acknowledgement and development of understanding within the broader community that it is necessary to deal with the legacy of the conflict in order for us to be reconciled as a community to moving forward together.
- Endorsement from OFMDFM as a Department, in line with its 10-year strategy on victims.
- Political consensus between the parties in the Assembly, between the British and Irish Governments, and between the Assembly and the two governments.
- Support from civic leaders.

3.5 The Commission has two objectives it wishes to fulfil:

- To facilitate reflection on the Consultative Group's recommendations.
- Constructing a formula for dealing with the past, informed by those reflections.

3.6 We intend to take this forward by working simultaneously on four levels:

- 3.6.1 We intend to use the Forum for victims and survivors, which we have a statutory duty to establish, as a formal mechanism for consultation and discussion. We will also, in the course of our work, take into consideration the views of victims and survivors who are not part of any support organisation or members of the Forum, in order to seek to represent as broad a view as possible.
- 3.6.2 We propose to establish a working group with the Department of the Office of the First and Deputy First Minister. Primarily, this group will establish how proposals for dealing with the past would be integrated within the Department's proposed draft Strategy and proposals for the establishment of a Victims and Survivors Service.
- 3.6.3 Political engagement would include meetings with the parties in the Assembly, the British and Irish Governments and international governments from whom ideas and/or experience can be gleaned.
- 3.6.4 In terms of civic engagement, we intend to meet with Church leaders, the PSNI, the HET, PONI, Criminal Justice/Human Rights NGOs, Third Sector leaders, other commissions and other interested parties.

#### 4. FUTURE PROVISION FOR VICTIMS AND SURVIVORS

4.1 The Committee will no doubt be aware that OFMDFM have published an Outline Draft Strategic Approach for Victims and Survivors.<sup>4</sup>)

4.2 The overall aims of the strategy are to:

- Put in place comprehensive arrangements to ensure that the voice of victims and survivors is represented and acted upon at a governmental and policy level.
- Secure through the provision of an appropriate range of support services and other initiatives a measurable improvement in the wellbeing of victims and survivors.
- Assist victims and survivors, where this is consistent with their wishes and wellbeing, to play a central role, as part of wider society in addressing the legacy of the past.
- Assist victims and survivors to contribute to building a shared and better future.

4.3 The Commission endorses the aims of the draft strategy as stated, and through the development process outlined at 3 above, intend to seek the views of a range of stakeholders on the extent to which the Consultative Group on the Past's recommendations meet those aims.

#### 5. THE OPERATIONAL IMPLICATIONS FOR BODIES CURRENTLY OVERSEEING THE REVIEW OF HISTORICAL CASES

5.1 As stated above, the Commission believes that a process for dealing with the past based on broad agreement is the best way forward for those impacted by the conflict. What we are clear on, however, is that there cannot be any operational gap between current provision in this area and any future arrangements.

5.2 The work of the Historical Enquiries Team, we must acknowledge, has come in for significant criticism, but unless and until there is agreement on an alternative investigative process, HET's work must continue to be resourced. Likewise, we see the work of the Police Ombudsman in terms of historical cases as requiring continuation until such times as an alternative process is put in place.

5.3 In this respect, we are mindful of the strain in terms of budget and human resources that has been put upon the HET in taking on investigations in respect of Operation Stafford. Should this re-occur, or should strain on resources cause anything less than robust examination of historical cases, community confidence in their efficacy will be eroded. This in turn will erode confidence in any process designed to replace it.

<sup>4</sup> <http://www.ofmdfmi.gov.uk/outline-draft-strategy-for-victims-and-survivors-consultation-paper.pdf>

5.4 It is worth bearing in mind the length of time HET has taken to review chronologically the cases it undertakes. Currently, open files under review are for the period up to 1974, with cases not investigated in chronological order bringing the number of open and concluded investigations to approximately one third of HET's case load.

5.5 It is of concern that proposals for the Legacy Commission to complete its work within five years may not be realistic. Discussions with stakeholders, as outlined above, will inform our decisions on that matter.

5.6 In terms of Tribunals of Inquiry, the Commission believes that there currently exists no credible alternative investigative process. In that context, Public Inquiries will continue to be sought, not necessarily because of their proven efficacy, but because they are the only option where particular events have given rise to public concern.

5.7 Government must clearly demonstrate its commitment to ensuring that any process of handover or change is seamless and is in the best interests, and indeed has the support of victims and survivors.

## 6. CONCLUSION

6.1 An opportunity exists, based upon the recommendations of the Consultative Group on the Past, to develop new, robust processes that address the need for investigation, truth, justice and provision of services that victims and survivors seek and have articulated, based upon the Initial Review of Need published by this organisation in January 2009.

6.2 The Commission for Victims and Survivors would support such a process which can have the confidence of the majority of the community, whilst acknowledging that it will not be supported by all. That is not to say that the recommendations of CGP ought to be implemented as made. We believe it is only through further dialogue, which will be difficult and contentious as all matters of conflict resolution are, that a picture of what is achievable and ultimately acceptable to victims and survivors and the broader community on these islands who have been impacted by the conflict will emerge

*10 April 2009*

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### Written evidence from TMR Health Professionals

#### FUTURE PROVISION FOR VICTIMS IN NORTHERN IRELAND

- Currently there is no clear commitment to long term funding policies that would embed the range of trauma services into core health and social care provision.
- The CGP Report recognises the need for a specialist trauma service as conflict-related trauma is a “major public health issue”.
- TMR Health Professionals have provided through government funding, a “gold standard” service for NI conflict-related trauma by embedding Primary Care Link Workers in GP Practices/health centres in the Northern area (two-year pilot project):
  - Eye Movement Desensitisation and Reprocessing (EMDR) was evaluated as cost effective and clinically effective to provide individual assessment and treatment plans to meet individual need.
  - Over 1,000 clinical sessions and 74% patients completed treatment.
  - GPs reported decreased prescribing of drugs for anxiety and depression.
  - This approach is an integral part of the OFMDFM Victims Unit 10 year Strategic Plan and also the Work Plan of the Commission for Victims and Survivors.
  - A GP practice has elected to continue on the Primary Care Link Worker Service.
  - The Medical and Dental Training Agency have adopted our specialist training for GPs in screening for PTSD (as designed by TMR Health Professionals).

1. The future for all citizens of Northern Ireland rests on each person who has been affected by the legacy of the past having access to the necessary services to enhance their overall health and wellbeing. The Report highlights a number of key issues in regard to the future needs and concerns of victims and survivors that need addressed as a matter of urgency.

2. The Report recognises the value of the work already undertaken by the myriad of non-statutory groups and many of the statutory organisations but this has, overall, been a very “piecemeal” approach. The approach was revenue dependent and the DHSSPS and local government agencies never fully addressed the level of commitment to long term funding policies that would embed the range of trauma services into core health and social care provision.

3. The Report highlights the issue of “Understanding and Responding to Trauma” (pg 87) and outlines that “*for many people experiencing a traumatic event has resulted in an array of conditions such as alcohol, drug dependency ...*” it goes on to say “*those who work with people who have suffered (trauma as a result of conflict related incidents)* need the opportunity to deal with these through the availability of specialist trauma services. This is somewhat more critical given that the authors of the Report have identified “*conflict related trauma as a major public health issue*” (pg 88)

4. The report states that “*the healthcare system was portrayed as, at time, inflexible and unduly wedded to certain therapeutic responses, some of which may not be the the most effective....*” (pg 88) At TMR Health Professionals we have been at the forefront of service provision, offering a broad spectrum of care services and therapeutic approaches for victims and survivors of the conflict and people who have the range of co-morbid conditions as a result of conflict related experiences. We have a major success rate with the provision of EMDR (Eye Movement Desensitisation and Reprocessing as a therapeutic intervention programme for PTSD and related conditions. The success and effectiveness of this therapeutic response is well documented in our practice and in clinical research (see Annex 1). At the forefront of our multi-disciplinary clinical team we have two European recognised specialists in EMDR (Drs. Paterson and Miller). We raise this issue within this document to highlight the effectiveness of this approach on a number of different levels and to address directly the problem of healthcare providers being wedded to a single approach which is neither cost efficient in terms of value for money nor clinically effective in terms of providing individual assessment and treatment plans to meet individual need. We can provide documentary evidence to support the outcome effectiveness of this treatment as a way of addressing the issue of “*trauma being a major public health issue*” (pg 88) and we would like to take the opportunity through this response paper to demonstrate that we are in a position to address this situation.

5. In 2002 we were commissioned by the Northern Area Trauma Advisory Panel on behalf of the Department of Health and Personal Social Services and Public Safety (DHSSPS) and the Victims Unit of the Office of the First and Deputy First Ministers Office to provide a Primary Care Link Worker Service as a two year pilot project. The essence of this Service was to provide an effective, community-based therapeutic service for adults who had experienced emotional and psychological trauma as a consequence of the political and community conflict in Northern Ireland (colloquially and euphemistically referred to as “The Troubles”).

6. The Project included the placement of a clinically trained psychotherapist (a Primary Care Link Worker) in each of three GP practices/medical centres in the NHSSB area. The pilot sites were identified within a socially acceptable and non-stigmatised environment of a primary healthcare setting. The Primary Care Link Workers were supported and supervised throughout the Project by a Consultant Psychiatrist (who also provided training and advice to the GPs on pharmacological medication for the treatment of PTSD (Post-traumatic Stress Disorder) and a Consultant Clinical Psychologist. The Service benefited from the availability and direct access to these senior clinicians for medical and psychological advice on specific issues for providing holistic care plans for patients.

## OUTCOMES

7. Almost 1,000 clinical sessions were provided over the two-year period of the Project with 74% of patients completing the full treatment programme. This is a significant figure as people who receive psychological trauma treatments often fail to attend after the first few visits.

8. GPs in the pilot sites for the service have indicated that as a result of the training designed and provided by TMR Health Professionals they have developed their capacity and competency to screen for post-traumatic stress conditions and prescribing the most appropriate pharmacological medications for such conditions. They have also identified the need for funding to be made available to provide this model of service as an essential part of core provision in primary care settings. One GP practice has continued with the Primary Care Link Worker service by generating the funding themselves.

9. There is clear evidence from the evaluation outcome that the Project has reduced the level of subsequent costs for prescription drugs for other conditions (such as depression, anxiety etc) for those patients who used the service. Additionally, the Project has provided evidence-based information to support the view that people who have experienced trauma are more likely to develop one or more of the main mental health conditions such as anxiety, depression, addiction etc. It is a well-recognised fact that these conditions have been an underlying cause for many physical conditions and also the main reason for the significant rise in prescription drugs and, in some cases, alcohol dependency.

10. The Project has been identified as a gold standard model of good practice by the key government healthcare agencies, Victims Commissioner, Office of the First and Deputy First Ministers Office (Victims Unit), The Medical and Dental Training Agency, the Department of Health and Personal Social Services and the Northern Ireland Health Committee. The Primary Care Link Worker Service Model is an integral part of the OFMDFM Victims Unit 10 year Strategic Plan and also the Work Plan of the Commission for Victims and Survivors.

11. A full report on this Project is being sent by mail. It shows an outline of the clinical value of the Project as well as providing the individual, social and contextual dimension in which the Project was designed and implemented.

12. At TMR Health Professionals we would suggest to the Northern Ireland Public Affairs Committee that this unique and evidence based effective Service is given consideration with acuity of mind accordingly.

## Annex 1

13. EMDR was developed initially as a treatment for Post Traumatic Stress Disorder and was found to be successful with veterans of the Vietnam War and survivors of rape. In 2000, EMDR was recognised by the International Society for Traumatic Stress Studies as an effective treatment for PTSD. The Northern Ireland Department of Health subgroup, CREST, followed suit in 2003 and the National Institute of Clinical Excellence (NICE) in the UK in 2005. EMDR has also been considered highly effective and supported by research in the practice guidelines of the American Psychiatric Association (APAA, 2004) and the US Departments of Defense and Veterans Affairs.

14. Spector (2007) states, “Results in randomised controlled comparison studies overwhelmingly show an effect for EMDR with a trend towards greater efficiency when compared to traditional exposure procedures.” For example, the greater efficiency was demonstrated in a study commissioned by the Scottish Office (Power et al, 2002) which showed EMDR to be, on average, two sessions quicker in obtaining remission from PTSD.

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April 2009

## Written evidence from the Northern Ireland Retired Police Officers' Association

### INTRODUCTION

1. The Northern Ireland Retired Police Officers' Association (NIRPOA) represents the interests of retired members of the Royal Ulster Constabulary George Cross (RUCGC) and the Police Service of Northern Ireland (PSNI). It has some 3,000 members. Whilst individual members have a range of views on many aspects of the Report of the Consultative Group on the Past<sup>5</sup> (“the Report”), in presenting our corporate views we will concentrate on the Report’s proposals in relation to victims and to the Legacy Commission.

### LANGUAGE USED IN THE REPORT

2. There are, however, some general points that should be made about the Report overall. The language of the Report is hardly surprising in view of the former professions of the co-chairs as clergymen.<sup>6</sup> The concept of forgiveness is very worthy and no less than we might hope for in the broader spiritual sense. There is also recognition that those to be forgiven would normally be expected to acknowledge the need for forgiveness.<sup>7</sup>

<sup>5</sup> Report of the Consultative Group on the Past, presented to the Secretary of State for Northern Ireland, Belfast, 23 January 2009

<sup>6</sup> Report, pp 162–164; the membership of the Consultative Group on the Past also contained another churchman and a theologian

<sup>7</sup> Report, pp 25, 54–55

3. At the political level things are rather different. The Consultative Group on the Past (CGP) has produced a document which unfortunately appears to be part of the wider agenda being followed by our government (and almost certainly also the government of the Republic of Ireland)—in “collusion” with Sinn Féin—to establish the concept of “moral equivalence”. That is to say that the whole thrust of the document seems to be to draw no moral distinction between those who sought to commit murder and torture, who used assault and intimidation, who bombed buildings and destroyed economic infrastructure and those who did their duty in a law-bound, disciplined, visible public service in order to protect life and property. NIRPOA’s members were engaged in civilian policing, however difficult and even contentious that may have been. We do not accept that we were one party in a legitimate conflict between groups enjoying equal legal, ethical and moral status. From the establishment of “police primacy” in 1976 our commitment was to the rule of law, not to victory in armed combat.

4. “Parity of esteem” should not be extended to cover this area of public life. To refer to “the oppressive presence of military and paramilitary forces”<sup>8</sup> as if not only the effect, but also the reason for the presence of such forces, was somehow parallel or equally valid, is ridiculous and offensive; it seeks to legitimise the existence of the paramilitaries and their presence within such communities. This sort of language unfortunately sets the tone for much of the Report.

5. The Report refers constantly to the “conflict”;<sup>9</sup> and it offers an explanation for this choice of vocabulary.<sup>10</sup> But the Report is implicitly, and frequently explicitly, referring to the conflict between Republicanism and the State and not to the real conflict, that between good and evil in all parts of our community. The substantive “conflict” here was that between, on one side, those who wished to pursue their aspirations and objectives (or to defend their values, institutions and traditions) in civilised, lawful, and peaceful ways—and on the other, those who chose to inflict their will on others through the use of violence. This proved to be a violence which not only destroyed lives and damaged families, but also corrupted the perpetrators themselves. Such conflict existed within communities. The use of the term “killings”,<sup>11</sup> where many would use the word “murders”, is similarly indicative of this approach.

6. The “State” which seems so keen to accept blame for its actions is now peopled by those who will claim no personal responsibility for the events which the Report describes. That was then (and “them”) and this is now (and “us”). Current office-holders and officials appear to think that there is a good political deal to be had by allowing, and even participating in, the castigation of those who themselves have no current corporate existence. The Report does acknowledge the existence of concerns in relation to this issue, although unsurprisingly it does not examine these in depth, preferring to leave such matters to the proposed Legacy Commission.<sup>12</sup> NIRPOA’S concerns regarding the Legacy Commission are outlined below.<sup>13</sup>

7. Another theme running through the Report is the constant use of the word “collusion”.<sup>14</sup> It is clear that members of the CGP have listened well to the propagandists whose efforts over the last twenty years have been rewarded with a number of mud-slinging opportunities at vast public expense;<sup>15</sup> but there is no indication that any consideration whatsoever has been given to the attempts by NIRPOA to establish a credible definition of a term which has such emotive connotations here in Northern Ireland.<sup>16</sup>

8. Instead the Report asserts that “The issue of alleged collusion has not been properly dealt with”.<sup>17</sup> But the Report makes no mention of the outcome of the lengthy and detailed consideration given by the Director of Public Prosecutions to the one million pages of evidence produced by Lord Stevens as a result of the latter’s meticulous inquiries into allegations of serious crime and misconduct.<sup>18</sup>

9. Unusually the Director of Public Prosecutions issued a public statement on the matter. “In relation to collusion it should be noted that whilst there is or may be conduct which may be characterised as collusion, there is no offence of collusion known to the criminal law of Northern Ireland. However, evidence of criminal conduct which could be characterised as collusion may, where there is sufficient available and admissible evidence, give rise to prosecution for certain criminal offences. In this regard, the Director, in his examination of the police investigation files, gave consideration to whether the evidence was sufficient to meet the Test for Prosecution in respect of a range of offences, including murder, conspiracy to murder, manslaughter, misfeasance in public office, firearms and documents offences.”<sup>19</sup> The Director gave his consideration and decided that the evidence was not sufficient to meet that test.

<sup>8</sup> Report, p 26; the fuller picture presented by the text on page 71 mitigates this effect to some extent, but continues to suggest moral equivalence

<sup>9</sup> Report, *passim*

<sup>10</sup> Report, p 51

<sup>11</sup> Report, *passim*

<sup>12</sup> Report, pp 68–69

<sup>13</sup> *Vide sub*, p 6 *et seq*

<sup>14</sup> Report, *passim*, but see for example pp 35, 69, 125, 135, 147 etc

<sup>15</sup> For example, the Rosemary Nelson Inquiry, the Billy Wright Inquiry

<sup>16</sup> See “‘Collusion’—Easy to Allege but Hard to Define” in “How the Ombudsman got It Wrong”, published by NIRPOA, Belfast, March 2007 and available on the NIRPOA website: [www.nirpoa.org](http://www.nirpoa.org)

<sup>17</sup> Report, pp 35, 124

<sup>18</sup> Often referred to as “Stevens III”; see Report p 178

<sup>19</sup> Statement by the Director of Public Prosecutions for Northern Ireland in relation to decisions as to prosecution arising out of the Stevens III Investigation

10. Astonishingly, the Report, in dealing with the outcome of “Stevens III”, blithely refers to the file “leading to 98 convictions” without bothering to point out that, generally speaking, hardly any of these could be construed as having anything to do with any alleged “collusion”. Nor does the Report mention that each of the three inquiries undertaken by Lord Stevens was instigated at the request of the Chief Constable of the RUCGC of the time.

11. And further on the subject of “collusion” the Report appears to accept uncritically the allegations of the former Police Ombudsman for Northern Ireland in respect of her highly controversial report on the activities of the Ulster Volunteer Force in North Belfast.<sup>20</sup> This much publicised “Statement”, which was a series of unsubstantiated assertions, was comprehensively demolished by NIRPOA in their published rebuttal.<sup>21</sup> And the Security Minister publicly cleared three former senior RUCGC officers who had been subjected to unfair and cowardly criticism under the cover of “parliamentary privilege” as a direct result of the irresponsible handling of the “Ballast” inquiry and the “Statement”.<sup>22</sup>

12. Yet only an unchallenged repetition of the Ombudsman’s now discredited “findings” appears in the Report. There is no reference to the fact that this prolonged inquiry failed totally to persuade the Director of Public Prosecutions that there was any criminal case to answer, nor to the widespread rejection of the Ombudsman’s unfounded assertions.

13. These defects in the Report are important because they may create an impression in the mind of the reader which would make the Report’s recommendations in relation to the “Legacy Commission” and “Justice and Information Recovery”<sup>23</sup> appear to be more reasonable and indeed more attractive than actually they are. It is the view of NIRPOA that these recommendations require thorough scrutiny and debate and that, taken as a whole, they are not acceptable in their current form.

#### RETIRED POLICE OFFICERS AS “VICTIMS”

14. Very many retired police officers are “victims” within the meaning of the accepted definition.<sup>24</sup> We welcome the attention which the Report pays to the interests of victims. It is noted that whilst some thought is given to the particular concerns of those who served in Her Majesty’s Forces and the Prison Service, the Report is largely silent on former members of the RUCGC and RUCR. Whilst it is not believed that this is intended in any way to be a sleight, it is hoped that proper consideration will continue to be given to the needs of our members.

15. In particular we would draw attention to the high referral rate to the Department of Psychological Therapies within the Police Rehabilitation and Retraining Trust (PRRT). Some 250 new referrals are received each year, most of them self-referrals.<sup>25</sup> Amongst those from a profession with a reputation for a “macho” culture such figures are alarming. In some cases “story-telling” of the type alluded to in the Report<sup>26</sup> may be therapeutic, but we would have significant concerns about the potential impact of the Legacy Commission and the recommendations in the Report concerning Information Recovery.<sup>27</sup>

#### CONTINUING INQUIRES AND INFORMATION RECOVERY

16. We oppose many aspects of the proposals in these matters, but even the general aspirations of the CGP as articulated in the Report seem optimistic to the point of being unrealistic: “to look at overall accountability, not individual accountability; to identify areas where things went wrong and why they went wrong; to gain greater understanding”.<sup>28</sup>

17. We are very concerned about the proposals to compel witnesses to give evidence under oath in private, informal hearings and to make the production of documents mandatory.<sup>29</sup> And the Report appears to advocate giving the Commission authority to overrule state agencies where there may be a dispute over the supply of information.<sup>30</sup> Inquiries held in private have not always earned public confidence and the present proposals smack of the “Star Chamber”;<sup>31</sup> certainly the privacy and compellability aspects are difficult to reconcile with the aspirations of the CGP to make only recommendations which are Human Rights compliant.<sup>32</sup> Whilst the Report pays attention to its own interpretation of the requirements of Article 2 (the Right to Life), in our view it pays scant regard to Article 6 (the Right to a Fair Trial) and Article 8 (the Right to Privacy).

<sup>20</sup> Report, pp 178–179; referring to Section 62, Police (Northern Ireland) Act, 1998 Statement by Police Ombudsman on “Operation Ballast”, Belfast, January 2007

<sup>21</sup> “How the Ombudsman Got It Wrong”, published by NIRPOA, Belfast, March 2007

<sup>22</sup> Hansard, 17 July 2007, Column 185W

<sup>23</sup> Summarised at Report, pp 17–19

<sup>24</sup> Report, p 67, quoting Article 3, Victims and Survivors (Northern Ireland) Order 2006

<sup>25</sup> Figures from PRRT bulletin, January 2009

<sup>26</sup> Report, p 97

<sup>27</sup> Report, pp 125–126

<sup>28</sup> Report, p 129

<sup>29</sup> Report, p 148

<sup>30</sup> Report, p 151

<sup>31</sup> Secret courts which increased the unpopularity of the Stuart monarchy during the early 17th century (prior to the advent of ECHR!)

<sup>32</sup> Report, p 50



18. We would also have significant concerns about the creation of any additional new body with “police powers”.<sup>33</sup> The serious mistakes which were made when the Office of the Police Ombudsman for Northern Ireland was created must not be repeated. This was a body which had police powers but, contrary to all modern civilised norms and to the provisions of Article 13 of the European Convention on Human Rights (ECHR), there was absolutely no mechanism for those who had complaints against the body in relation to their treatment by it to have any redress whatsoever.<sup>34</sup> This led to severe injustices which have yet to be remedied and which must not be repeated.

19. Our particular concern in this matter would be the uneven burden which would be likely to fall on individuals within the community in Northern Ireland. Inquiries into deaths are likely to require the assistance of the police officer who was in charge of any investigation at the time. There are a number of retired police officers living in Northern Ireland who served for many years in the Criminal Investigation Department (CID) and were involved in, or indeed led, murder inquiries. Some were involved in over 100 such inquiries. Are such people really to be dragged out of well-earned retirement time and again to be confronted anew with the horrors of the past? Where is the right to enjoy family life under Article 8? And in many cases there is likely to be an agenda which alleges or implies that their conduct was somehow deficient. Where, after so many years and with so many advances in techniques and changes in procedures, is the right to a fair hearing?

20. The Report states that the purpose of such investigations would not be to blame or name individuals,<sup>35</sup> but it is hard to see how that could be avoided or to find any alternative purpose for such an investigation in the highly-charged and retributive climate of Northern Ireland’s politics. And with the prospect of “reports” being published by the Commission<sup>36</sup> there arises the possibility of irresponsible and unaccountable behaviour such as was seen with the publication of the former Police Ombudsman’s “Ballast” Statement.<sup>37</sup>

21. It is agreed that the present arrangements for investigating past crimes are unsatisfactory, but the Belfast Agreement has limited the options in this area. The CGP appears to recognise that the Historical Enquiries Team (HET) has had some limited success in conveying information to relatives but that it is unlikely to solve many crimes, with its principle success to date resulting from a “walk-in”.<sup>38</sup> The truth is that most serious investigative resources (Police Ombudsman, HET special teams, Public Inquiries, Stevens) are today focused on scrutinising state agencies, in particular the police, in order to try to identify opportunities, if not for prosecution, then at least for criticism.

22. The Northern Ireland Affairs Committee (NIAC) recognised that the activity of the Public Inquiries generated by Cory’s report placed “the police and prison services under particular scrutiny”;<sup>39</sup> but the CGP appear to wish to exacerbate this problem. The statistics demonstrate that the police were responsible for fewer than 2% of the deaths due to the security situation in Northern Ireland during what the Report refers to as the “conflict”,<sup>40</sup> but the reader will struggle to find this information in the Report.<sup>41</sup> And yet who does the CGP really expect to turn up to its Commission, complete with documentary records, to deal with its individual and thematic inquiries? Does the CGP expect the terrorists or criminals (or perhaps we should say “paramilitary participants in conflict”) to parade before its Commissioner, complete with minutes of meetings of the Ulster Defence Association Brigadiers or the monthly activity reports of the Provisional Army Council? It is quite clear where the burden will once again fall—certainly not on those who set out to commit murder.

23. The Report does not make clear how areas for “Thematic Examination”<sup>42</sup> might be selected, although it makes no secret of its determined agenda to keep the myth of collusion at the forefront of our minds.<sup>43</sup> There is a danger here that politically-driven pressure groups will ensure that we continue to look backwards, instead of striving to move forwards in accordance with the wishes of the people of this island as expressed in 1998.<sup>44</sup>

<sup>33</sup> Report, p 125

<sup>34</sup> Police (Northern Ireland) Act 1998 and subsequent legislation; but the lamentable oversight has still not been addressed by government

<sup>35</sup> Report, pp 129, 152

<sup>36</sup> Report, p 152

<sup>37</sup> Vide supra, p 5 and footnote 16

<sup>38</sup> Report, pp 106–107

<sup>39</sup> Quoted in Report, p 115

<sup>40</sup> Fay, Morrissey, Smyth, Wong, “Northern Ireland’s Troubles: The Human Costs” Pluto Press, London 1999; see also <http://cain.ulst.ac.uk>

<sup>41</sup> Report, pp 60–61

<sup>42</sup> Report, p 135

<sup>43</sup> Vide supra, p 3 *et seq* and footnote 10

<sup>44</sup> “Good Friday Agreement” 1998, “Belfast Agreement”; and subsequent referenda

## CASE STUDIES

24. One retired police officer was subject to a harrowing ordeal over a period of nearly a decade after his retirement from the police. His conduct was investigated from a criminal perspective and attempts were made to find fault in terms of the procedures which he followed in saving countless lives. In view of the facts, it was inevitable that no prosecution would follow; but he was relentlessly pursued until all possible avenues by which he might be sanctioned were utterly exhausted and he was finally “cleared”. Are we now to create a new mechanism for subjecting him to another five years of punitive, unfair and unwarranted treatment?

25. Another retired officer (who was subject to more than one attempt on his life) dealt with in excess of 100 murder inquiries. Since his retirement he has been pursued by the former Police Ombudsman and has assisted at Public Inquiries. Is he now to be at the beck and call of some new Commissioner for the next five years of his life, as he laboriously rehearses the horrific details of many of the murder scenes which he has visited?

## CONCLUSION

26. For our members the suspicion must be that, with all the attempts to establish the myth of “collusion” having failed through want of evidence, it is now thought necessary to lower the threshold of proof in the hope of justifying the unjustifiable assertions of the detractors of the RUCGC. The suspicion is reinforced by an examination of the language which the Report chooses to use in relation to the role of informants.<sup>45</sup> The CGP should know that it was not “communities”, but rather terrorist organisations, that were the target of the security forces’ informant operations. Many informants saved numerous innocent lives and should in no way feel, or be made to feel by the Report, that their “self-esteem”<sup>46</sup> is compromised or that they have anything to “admit”.<sup>47</sup> It is hard to avoid seeing a connection between the Report’s attitude to informants (and its persistent use of the word “collusion”) and the long-term Republican strategy to undermine confidence in police intelligence-gathering techniques. Recent tragic events should indicate the need for proper consideration of all the issues in relation to this important matter.

27. Retired police officers look forward no less than any others to genuine reconciliation within our community and we welcome the skill and devotion which has gone into the Report of the CGP. We have tried to restrict our comments to specific areas, but would note that many of the Report’s recommendations for new activity seem to us to duplicate or overlay existing structures or institutions. Similar results might be achieved with greater efficiency by providing additional support or funding to those institutions.

28. In many areas we are in agreement with the CGP’s recommendations; but we have felt it right to draw attention to our considerable concerns regarding (i) what we consider to be the unfortunate use of language in some areas and (ii) the very serious and deleterious implications for many of our members of the proposals in relation to continuing inquiries and truth recovery mechanisms.

*April 2009*

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## Written evidence from Healing Through Remembering

### 1. SUMMARY

1.1 Healing Through Remembering (HTR) welcomes the publication of the report by the Consultative Group on the Past and calls for a substantive debate on the issues of truth, reconciliation and justice and the recommendations in the report.

### 2. RESPONSE TO THE REPORT

2.1 The Report of the Consultative Group on the Past builds on the work of Healing Through Remembering amongst others and supports the view, long held by Healing Through Remembering, that there is need for society to address the issues relating to the conflict in and about Northern Ireland in order to build a more peaceful future. While the diverse membership of Healing Through Remembering naturally holds a variety of opinions on the individual recommendations in the Report, it feels that this Report offers an opportunity to genuinely engage on the difficult issue of the past.

2.2 Few countries have consulted so widely in their deliberations on such issues. Opportunities for dialogue on these thorny issues should not be squandered on the back of political posturing. There is need for a measured and reasonable debate on the recommendations and an attempt to be made to try and find

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<sup>45</sup> Report, pp 71–72

<sup>46</sup> Report, p 71

<sup>47</sup> Report, p 72

a measured way of taking this issue forward. The experience of HTR is that honest inclusive debate in an appropriate environment can bring agreement on reconciliation, truth and justice by those who hold opposing views and opinions.

### 3. EXTRACT FROM HTR SUBMISSION TO CONSULTATIVE GROUP ON THE PAST

3.1 There is no single solution for the process of dealing with our past. Some processes of remembering, reflecting and educating must be sustained for another generation at least, while recognising that other aspects may need to be time-bound. All have a part to play in dealing with the memories of the past. This has been and will continue to be a painful and difficult task, however it should not paralyse us and prevent us from moving on, but encourage us to avoid further damage, seek solutions and create a better future.

3.2 A commitment is required to dealing with the past relating to the conflict in and about Northern Ireland in order to build a better future. The Northern Ireland Assembly, British and Irish Governments, and local political leadership, must endorse the need to deal with the past and will need to provide a conducive environment for this to happen. Civil society—communities, community groups, churches, individuals and organisations—needs to do the same and to engage in the debate as many are currently doing, whilst continuing to develop their own ideas and solutions. Their ongoing work should be supported.

3.3 We believe it is essential that steps are taken by our society, to develop a network of commemoration and remembering projects; a storytelling initiative; a day of reflection; a living memorial museum; and acknowledgement, especially by those actively involved in the conflict, institutions and the governments. The establishing of the truth about the past, to the degree this is possible, is an important right for all, and ways of pursuing this in a structured and consensual way should be sought. This altogether should provide the foundation for dealing with the past.

3.4 Developing dynamic and unique practices and methods for dealing with the past in a spirit of tolerance and respect will require a willingness to take risks. Those involved with HTR Sub Groups, Board and wider membership have taken risks and have engaged the issue in a constructive and productive manner. We believe it important that our society grasps the opportunity of remembering in a constructive way, to enable us to move into a new future built on a shared acknowledgement of the conflict in and about Northern Ireland. We as an organisation are committed to assisting in taking this process forward.

### 4. INFORMATION ON HEALING THROUGH REMEMBERING

4.1 Healing Through Remembering (HTR), is a cross-community organisation considering how to deal with the past relating to the conflict. Its membership includes people from diverse backgrounds including loyalist, republican, army, and police backgrounds as well as from different faith backgrounds, victims and community groups and academic institutions.

4.2 HTR has undertaken a range of consultations, commissioned research, held conferences, led seminars and workshops to both gather public opinion on how to deal with the past as well as inform those not engaged in the debate. Reports of the above activities include: All Truth is Bitter (2000), Healing Through Remembering Report (2002), Storytelling Audit: An audit of personal story, narrative and testimony initiatives related to the conflict in and about Northern Ireland (2005), International Experiences of Days of Remembrance and Reflection (2005), Storytelling as the Vehicle? Conference Report (2005), Day of Reflection: A Scoping Study (2006), A Day of Private Reflection: Discussion Paper and Proposal (2006), Making Peace with the Past: Options for truth recovery regarding the conflict in and about Northern Ireland (2006), Making Peace with the Past Executive Summary (2006), Acknowledgement and its Role in Preventing Future Violence (2006), The Viability of Prosecution Based on Historical Enquiry (2006), Without Walls: A report on the Open Call for Ideas for a Living Memorial Museum of the conflict in and about Northern Ireland (2008), Artefacts Audit: A report of the material culture of the conflict in and about Northern Ireland (2008), 21 June 2007 Day of Private Reflection Evaluation Report (2008).

4.3 Copies of HTR reports and further information on the work of HTR are available from the website—[www.healingthroughremembering.org](http://www.healingthroughremembering.org)—or by phone: 028 9023 8844.

*April 2009*

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### **Written evidence from The Working Group responding to the CGP Report, established by the Standing Committee of the Church of Ireland**

#### **SUMMARY**

This submission calls on the Select Committee:

- To identify those topics identified in the CGP Report that have the potential to produce positive results as NI society moves away from conflict. This submission particularly seeks further

development of the storytelling concept; the pursuit of cross-community engagement as part of the progress towards reconciliation; the development of initiatives around education; and, beyond the churches, a more effective integration of services to be undertaken by the Legacy Commission.

- To identify processes indicated in the report that have the potential to produce positive results throughout our society.
- To consider the potential role that the churches might play in providing part of the infrastructure for facilitating storytelling and recording and acknowledging those memories.
- To embed in any proposals, the need for public consultation.

1. The Consultative Group on the Past establishes early in its Report the guiding principle that significant forward movement is required on the part of everyone to enable “society to become more defined by its desire for true and lasting reconciliation”. Reconciliation is a word already much used, and in the opinion of many over-used in the context of Northern Ireland. However, in the Report it fulfils a fresh function in pointing all who are stakeholders in today’s Northern Ireland towards a new morality of forgiveness for the future. By the same token, the Group recognizes that sensitive and mature dealing with the past is a process, with all the human complexities surrounding victims in particular, and that allowing this process to evolve is critical.

2. The Report further issues the call to leaders of society to draw together existing elements of a consensus. This is a clear challenge and invitation to mobilize for good the overwhelming—and often overwhelmed—majority of people who see that violence, terrorism, political and social inertia are no more than an End Game leading to even deeper erosion of morale. The Report, and reaction to it, has also demonstrated that there remain huge issues on which there is no consensus. If nothing else, this demonstrates the urgent need to make a start; the foolishness of ignoring difficulties; the importance of finding a way forward for the whole community. To do nothing may be more than reckless—it may be a backward step.

3. Christianity is a future-focused religion. The churches seek to implement locally in practical ways the principles and ideals which flow from the life and teaching of God in Jesus Christ. However, in Ireland, Christian identity is shared but deeply divided. It is our conviction that, just as the churches have been part of the problem historically, so, by dint of such experience, they can contribute constructively to the future in the following ways:

- 3.1 A theological framework which gives voice to the dignity of the human person in full understanding that reconciliation and forgiveness are advanced and developed within the mutual respect which such dignity requires. History repeatedly shows that, in the reconstruction of a fractured society, unselfish acts of goodness “across the divide” do more than does crying for fresh blood; the scales of justice take us only so far in the quest for grace.
- 3.2 From this recognition flows an understanding that enemies and friends are both entitled to moral understanding if all are to be brought together to a point of exercising moral responsibility for past and present in contributing to a new moral framework for the future. There is an urgent need critically to examine together both corporate association and individual actions for the past in owning this new moral framework for the future. “Moral truth” is a phrase much used in the Report. However, it is of itself neither self-explanatory nor self-authenticating if it is to make a credible contribution to the future.
- 3.3 Integral to this is the sharing of stories, the expression of energy within telling and listening. In this regard, what Christians worldwide have learned world-wide in Inter Faith Dialogue and Encounter is important: Do not seek to present the best of yourself while at the same time presuming the worst of your Dialogue-partner.
- 3.4 The churches in Northern Ireland have a track record in sustaining community cohesion, preventing retaliation, caring for victims, and promoting dialogue. The Church of Ireland Hard Gospel Project, which ran during the last three years, promoted self-examination of our own organisation as a foundation for entering into dialogue with others—to tell the story of our communities as well as to listen to the stories that others have to tell. This project was the focus of the Church’s commitment to promote reconciliation, not only for others, but within our own structures and life as a Church.
- 3.5 The Churches have shown, long term commitment to their local communities. In many areas the Church is the main (if not only) voluntary body servicing the community. In Northern Ireland, Churches provide community services and resources, youth activities, care of elderly, counselling and pastoral support. This foundation represents a platform upon which many post-conflict initiatives may rest.
- 3.6 The specific aims of the Hard Gospel Project in tackling sectarianism and promoting reconciliation offer society in NI a strong model and this response urges the Select Committee to consider the value of such initiatives in facilitating the community to deal with the issues that still confront our post-conflict society.
- 3.7 As the Working Group appointed by the Church of Ireland Standing Committee, we welcome the opportunity to work with the implementation of the main thrust of the CGP’s recommendations and look forward to sharing our experience and resources in the process.

- 3.8 Urgent action, in the spirit of the Report, is required to co-ordinate initiatives which complement one another but are not currently integrated. In this regard, we welcome the proposed Legacy Commission and Commissioner.
- 3.9 It is premature to recommend without qualification a Truth and Reconciliation Commission. A primary need is the discovery of grammar and vocabulary of Dialogue and Encounter in a post-Conflict Situation. Political leaders have been helpful in preparing this ground and we are all beneficiaries of their best endeavours.
- 3.10 Remembering and Education go together. Education will have no “bite” to it unless those who learn at every age also experience positive changes in the society. One of the refreshing things about young people is that they have a devastating capacity to be honest about events, the things which in fact happen, in a way less prevalent in older adults. The educational system needs to factor in opportunities for remembering the past and configuring the future. The Working Group responds positively to the concept of A Day of Reflection and Reconciliation, which has already been successfully piloted by the group Healing Through Remembering’s Day of Private Reflection: The working group would like the Select Committee to consider giving this a forward-looking slant, perhaps by recommending a name for it, such as Reflecting for Tomorrow.
- 3.11 Ecclesiastical leadership consists primarily in enacted servanthood. Churches should seek to equip and facilitate lay people to be their best selves and should help to develop civic leadership among people of all expressions of Faith at every level. The leadership of the churches needs to be offered among the people and neither political, civic nor religious leadership will succeed if offered in a top-down manner. Reconciliation is something that happens locally and personally.
- 3.12 This submission calls on the Select Committee:
- (i) To identify those topics identified in the CGP Report that have the potential to produce positive results as NI society moves away from conflict. This submission particularly seeks further development of the storytelling concept; the pursuit of cross-community engagement as part of the progress towards reconciliation; the development of initiatives around education; and, beyond the churches, a more effective integration of services to be undertaken by the Legacy Commission.
  - (ii) To identify processes indicated in the report that have the potential to produce positive results throughout our society.
  - (iii) To consider the potential role that the churches might play in providing part of the infrastructure for facilitating storytelling and recording and acknowledging those memories.
  - (iv) To embed in any proposals, the need for public consultation.

#### CHAIRMAN’S ENDNOTE

I should like the Select Committee to make clear the ways in which its own Report might move forward any of the specific proposals in the above submission, were they to be accepted as worthy of implementation. A concentration on the issues seems to me now to be more important than the plethora of personal comments made thus far on the personalities of the authors of the Report of the Consultative Group, particularly its co-chairpersons.

Chair: *The Rt Revd Michael Jackson*  
Bishop of Clogher

10 April 2009

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#### Written evidence from the Northern Area Trauma Advisory Panel

The Northern Area Trauma Advisory Panel would like to acknowledge their thanks for the opportunity to respond to the Report of the Consultative Group on the Past . Issues identified by the Panel focus on the future provision of psychological trauma services (pg 85–88) for victims and survivors of community conflict in Northern Ireland.

- Currently there is no clear commitment to long term funding policies that would embed the range of trauma services into core health and social care provision.
- The Consultative Group on the Past Report recognises the need for a specialist trauma service as conflict-related trauma is a “major public health issue”
- Northern Area Trauma Advisory Panel have provided, through government funding, a “gold standard” service for NI conflict-related trauma by embedding Primary Care Link Workers in GP Practices/health centres in the Northern area (two-year pilot project delivered by TMR Health Professionals).

- Over 1,000 clinical sessions and 74% patients completed treatment using Eye Movement Desensitisation and Reprocessing (EMDR) as the main therapeutic approach. This approach was evaluated as cost effective and clinically effective to provide individual assessment and treatment plans to meet individual need.
- As a result of the Primary Care Link Worker Service and treatment approach for trauma, GPs reported decreased prescribing of drugs for anxiety and depression.
- The provision of a specialist trauma service within a primary care environment has been highlighted as a model of good practice and as a support for GPs is part of the OFMDFM Victims Unit 10 year Strategic Plan and also the Work Plan of the Commission for Victims and Survivors.
- Some GP practices have continued to provide the Primary Care Link Worker Service as an extension of their service provision following the success of the service.
- The Medical and Dental Training Agency in Northern Ireland have adopted the specialist training for GPs (as designed and provided by TMR Health Professionals, in screening for PTSD (as designed by Northern Area Trauma Advisory Panel).

1. The future for all citizens of Northern Ireland rests on each person who has been affected by the legacy of the past having access to the necessary services to enhance their overall health and wellbeing. The Report highlights a number of key issues in regard to the future needs and concerns of victims and survivors that need addressed as a matter of urgency.

2. The Report recognises the value of the work already undertaken by the myriad of non-statutory groups and many of the statutory organisations. However, overall, the “piecemeal” approach by policy makers meant that nothing “concrete” was ever put in place primarily due to the lack of funding to support specialist services by the DHSSPS and local government agencies.

3. The Report highlights the issue of “Understanding and Resonding to Trauma” (pg 87) and outlines that *“for many people experiencing a traumatic event has resulted in an array of conditions such as alcohol , drug dependency ...”* it goes on to say *“those who work with people who have suffered (trauma as a result of conflict related incidents)”* need the opportunity to deal with these through the availability of specialist trauma services. This is somewhat more critical given that the authors of the Report have identified *“conflict related trauma as a major public health issue”* (pg 88)

4. The report states that *“the healthcare system was portrayed as, at time, inflexible and unduly wedded to certain therapeutic responses, some of which may not be the the most effective....”* (pg 88) The Northern Area Trauma Advisory Panel has been instrumental in developing services, engaging in research, providing therapeutic intervention projects and designing information sources.

5. The report raises the problem of healthcare providers being wedded to a single approach which is neither cost efficient in terms of value for money nor clinically effective in terms of providing individual assessment and treatment plans to meet individual need. We can provide doumentary evidence to support the outcome effectiveness of alternative forms of treatment (including early intervention clinics to prevent the onset on serious mental health problems as a result of trauma).

6. The report has also highlighted the issue of *“trauma being a major public health issue”* (pg 88) and this should be taken very seriously as we have relentlessly tried to give this message to policy makers over the years. The issue of dealing with trauma in a population that has endured over 30 years of community conflict has never been fully addressed by the DHSSPS. There is clear evidence to support the fact that people in Northern Ireland have at least 25% more mental health problems than anywhere in the UK. The rising numbers of referrals for mental health services and anti-anxiety prescription medications reflect the situation. The strength of evidence to support the correlation of poor mental health and traumatic experiences through the generations is well documented yet the policy makers have failed to take a pro-active approach to this despite our best efforts.

7. In 2002, the Northern Area Trauma Advisory Panel on behalf of the Department of Health and Personal Social Services and Public Safety (DHSSPS) and the Victims Unit of the Office of the First and Deputy First Ministers Office commisioned TMR Health Professionals (a leading private health care company) to provide a Primary Care Link Worker Service as a two year pilot project. The essence of this Service was to provide an effective, community-based therapeutic service for adults who had experienced emotional and psychological trauma as a consequence of the political and community conflict in Northern Ireland (colloquially and euphemistically referred to as “The Troubles”).

8. The Project included the placement of a clinically trained psychotherapist (a Primary Care Link Worker) in each of three GP practices/medical centres in the Northern Health and Social Services Board area. The pilot sites were identified within a socially acceptable and non-stigmatised environment of a primary healthcare setting. The Primary Care Link Workers were supported and supervised throughout the Project by a Consultant Psychiatrist (who also provided training and advice to the GPs on pharmacological medication for the treatment of PTSD (Post-traumatic Stress Disorder) and a Consultant Clinical Psychologist. The Service benefited from the availability and direct access to these senior clinicians for medical and psychological advice on specific issues for providing holistic care plans for patients. The outcomes of this service are highlighted below:

- The Primary Care Link Worker Service has been identified as a gold standard model of good practice by the key government healthcare agencies, Victims Commissioner, Office of the First and Deputy First Ministers Office (Victims Unit), The Medical and Dental Training Agency, the Department of Health and Personal Social Services and the Northern Ireland Health Committee.
- The Primary Care Link Worker Service Model has been cited as part of the OFMDFM Victims Unit 10 year Strategic Plan and also the Work Plan of the Commission for Victims and Survivors and should therefore be seen as validation for the future development of services for victims and survivors of conflict related trauma.
- GPs in the pilot sites for the service have indicated that as a result of the training designed and provided by Northern Area Trauma Advisory Panel as part of the Primary Care Link Worker Service, they have developed their capacity and competency to screen for post-traumatic stress conditions and prescribing the most appropriate pharmacological medications for such conditions. They have also identified the need for funding to be made available to provide this model of service as an essential part of core provision in primary care settings. One GP practice has continued with the Primary Care Link Worker service by generating the funding themselves.
- The full evaluation report on the Primary Care Link Worker Service and other approaches identified above can be viewed on the website <http://trauma.nhssb.n-i.nhs.uk>
- The Northern Area Trauma Advisory Panel would strongly advise the Northern Ireland Public Affairs Committee that this unique and evidence based effective Service is given consideration with acuity of mind accordingly.

#### SUPPORTING NOTES AND REFERENCES

EMDR was developed initially as a treatment for Post Traumatic Stress Disorder and was found to be successful with veterans of the Vietnam War and survivors of rape. In 2000, EMDR was recognised by the International Society for Traumatic Stress Studies as an effective treatment for PTSD. The Northern Ireland Department of Health subgroup, CREST, followed suit in 2003 and the National Institute of Clinical Excellence (NICE) in the UK in 2005. EMDR has also been considered highly effective and supported by research in the practice guidelines of the American Psychiatric Association (APAA, 2004) and the US Departments of Defense and Veterans Affairs.

“Results in randomised controlled comparison studies overwhelmingly show an effect for EMDR with a trend towards greater efficiency when compared to traditional exposure procedures.” For example, the greater efficiency was demonstrated in a study commissioned by the Scottish Office (Power et al, 2002) which showed EMDR to be, on average, two sessions quicker in obtaining remission from PTSD.

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## Written evidence from the Royal Ulster Constabulary George Cross (RUC GC) Foundation

### THE RUC GC FOUNDATION

The Foundation was created by virtue of Section 70 of the Police (NI) Act 2000 for the purpose of “marking the sacrifices and honouring the achievements of the Royal Ulster Constabulary”. It commenced work in December 2001.

The functions of the Foundation allow it to look back on a long, proud history of policing and to look forward by supporting current serving officers. In particular, it will remember sacrifice and service and preserve the name of the RUC GC in the policing world.

### SUMMARY OF MAIN POINTS IN THE RUC GC SUBMISSION

The following important themes which run throughout the Report of the Consultative Group on the Past (CGP) have been identified by the RUC GC Foundation as causing particular concern to its members.

#### *Definition of Victims*

It is believed that the CGP took the easy way out by adopting the definition of “victim and survivor” contained in the “Victims and Survivors (Northern Ireland) Order 2006”. This definition equates members of the police service with those who tried to kill them during the “troubles” and is abhorrent to members of the RUC GC Foundation. It must be re-visited because, at the moment and along with the other identified themes, it is the view of the Foundation that the Report is fatally flawed.

#### *Equivalence*

As an issue in its own right, the theme of “equivalence” which permeates the Report is both insulting and insensitive towards members of the wider police family who believe that in no way are they equivalent to terrorists.

#### *New Structures*

The Report suggests many new structures to address the issues relating to the past. It is the contention of the RUC GC Foundation that at best this will lead to duplication or confusion of effort and at worst drive a further wedge between communities who are beginning to learn to live with each other in an unsteady peace. There are already many organizations and groupings working in the identified areas and it might be that the best way to progress matters is by providing additional resources to existing bodies.

#### *Lack of Accountability*

While many new institutions and structures are proposed throughout the Report, there is a distinct lack of clear systems of accountability, of the requisite checks and balances. If there is to be a Legacy Commission, which is opposed by the RUC GC Foundation, then it at least has to be subject to a clear system of accountability.

#### *The “Recognition Payment”*

Along with most other organisations and individuals who have provided an early analysis of the Report, the RUC GC Foundation is opposed to this payment for several reasons including that of “equivalence” which is a theme in its own right.

#### *Status of the Royal Ulster Constabulary GC*

Whilst the Report suggests that the best way forward for “victims and survivors” may be in a collaborative manner, it ignores the special circumstances and needs of the RUC who were placed by Government in the front line of the fight against terrorism. These needs can best be addressed outside of mainstream healthcare. There is also some distrust in mainstream healthcare exhibited by the wider police family, particularly given the recent upsurge in terrorist violence. A “duty of care” is owed to the RUC GC, many of whose members continue to suffer decades since their physical or mental injuries were initially sustained.



### *The Re-Writing of History*

The structures recommended in the Report, particularly around the area of “Processes of Justice and Information Recovery”, provide the potential for the re-writing of history. And while an Information Recovery process (a “Truth Commission” by another name) is proposed, the likelihood is that only the state side will be providing information of any worth.

### *Human Rights Issues*

While there is a considerable emphasis placed throughout the Report on the importance of each of its recommendations being Human Rights compliant, there are grave concerns in relation to the protection of the Human Rights of police officers (and their families) who, as a result of some of the recommendations in the Report, are placed under a degree of “compulsion” to assist the proposed Legacy Commission for many years into the future. Issues around Articles 6, 7 and 8 of the European Convention are identified as being particularly pertinent.

### *The Erosion of the Rule of Law*

Following on from the Good Friday Agreement, several of the recommendations contained in the Report further erode the “Rule of Law” eg the “airbrushing” of some criminal convictions, the process of information recovery and some prevarication around amnesty in the future. Such erosion is worrying in a democratic state.

### *Section 75 Impact Assessment*

Given the nature of the Report, the importance of achieving cross community support and the provisions of Section 75 and Schedule 9 to the Northern Ireland Act 1998, it is felt that a Section 75 Impact Assessment should be carried out on each of the recommendations which Government might decide to accept.

### **RUC GC SUBMISSION**

1. Overall, the RUC GC Foundation felt that the Report was fatally flawed for the reasons outlined in the body of this submission. For many within the wider police family and, indeed, society in general, it is a case of the present being “too late for justice and too early for truth”.

2. While the Foundation has serious reservations concerning much of the Report, there are some areas such as “healthcare” and “remembering” where positive recommendations have been made and should be developed. Indeed the Foundation would welcome the opportunity to assist in taking some of the recommendations forward based on the work they have already done in these areas to date.

3. It is noted that there are some apparently contradictory messages contained in Chapter 9 of the Report, “Conclusions and the Way Ahead”. Whilst on the one hand it refers to the importance of having the “debate”, on the other hand it urges that no time is wasted and that an Implementation Group is established “in the intervening time” (ie whilst the “debate” is being conducted). It is the view of the RUC GC Foundation that an appropriate time is allowed for the debate to take place before there is any implementation of the recommendations.

### **THE LEGACY OF THE PAST AND RECONCILIATION**

4. It is the belief of the RUC GC Foundation that much of the Report and its associated recommendations simply add an additional layer and associated expense to work that is already being done, or could be done, by organisations which are already in existence eg the Northern Ireland Community Relations Council (NICRC) and the Commission for Victims and Survivors for Northern Ireland (CVSNI).

5. It is also the belief of the Foundation that, rather than having the “overarching objective of promoting peace and stability in Northern Ireland”, much of the Report could lead to further division by opening up still raw wounds which have not had the time to heal with the potential to destabilise the embryonic political institutions.

6. Under the proposed arrangements for the Legacy Commission it is not clear what checks and balances will be in place—the Assembly doesn’t appear to have any responsibility in this area. If there is to be a Legacy Commission, which is opposed by the RUC GC Foundation, then it has to have a clear system of accountability.

7. It is the view of the RUC GC Foundation that the proposed £100 million bursary could be made available to existing organisations without the need for a Legacy Commission.

## VICTIMS AND SURVIVORS

8. The issue of victims is one of the most important aspects of dealing with the past and it is important that the Report addresses this issue thoughtfully.

9. The RUC GC Foundation is very much against the proposal for a “recognition payment” as it is centred on the concept of “equivalence” which is totally opposed by the RUC GC Foundation.

10. A great sense of hurt was generated by the definition of “victim and survivor” found in the “Victims and Survivors (Northern Ireland) Order 2006”—a definition which has been followed by the CGP. The definition of a “victim” in the Oxford English Dictionary reads “a person harmed, injured or killed as a result of a crime or accident”. This definition is much preferred. It is wrong to equate security force victims and other “innocent” victims with terrorists and criminals, an equivalence which for many in the wider police family and very probably wider society contributes greatly to the whole Report being fatally flawed.

11. The definition of “victim” must be re-visited.

12. It is further noted that, unlike other groups including other members of the security forces, the report is silent in respect of serving or former police officers, their widows, dependants and wider family circle—all of whom are key stakeholders in the RUC GC Foundation. Any suggestion that members of the wider police family have already been “well looked after” must be resisted.

13. It must be remembered that it was successive governments who relied on the police to “hold the line” and, in particular, the Thatcher government placed the prime role for countering terrorism on the police. Indeed military colleagues have indicated that this precedent has never been replicated in any other conflict, before or since. There are clear links to the military covenant which received much publicity recently when government’s commitment to it (and the associated duty of care) was impugned.

14. Government gave the police a unique role in Northern Ireland, a role that should be recognised by giving those police officers who have been killed while in the vanguard of society’s fight against terrorism the status of “fallen”—and not given spurious equivalence with others. A clear case can be and is made that police victims and their families ARE different.

15. The Report of the Independent Commission on Policing for Northern Ireland 1999 (the “Patten” Report), at paragraph 10.20, recommended a substantial fund be set up to help injured police officers, injured retired officers and their families as well as police widows. Consequently the current arrangements in place for the policing family are based on the implementations of the Patten Report. These arrangements were to address the needs identified by Patten and for practical and security reasons it was necessary to address separately the needs of RUC GC victims as opposed to other members of society.

16. The current arrangements for the policing family have taken time to develop and it is imperative that this initial funding commitment by Government continues. Patten was conscious that the conflict had covered an extended period of time and that many people injured and widowed in the early days of the troubles, as a consequence of low pensions and inflation, suffered extreme financial hardship. The needs change as people age and in particular the financial requirements of injured officers and their carers become greater as age interacts with the psychological and physical injuries.

17. Within the police family, the needs of the membership of the Disabled Police Officers’ Association (DPOA) and of other injured officers must be further addressed. This includes carers, many of whom are life-long. Early-day compensation to injured officers was derisory and pensions in many cases are low due to short service at time of injury. There is clearly a need to create a system of supplementary pension/income to ensure a reasonable standard of living, in a manner not dissimilar to pre-1982 police widows.

18. Many of the RUC GC organisations grew out of necessity and were set up as “self help” groups with minimal help from the centre. They are only sustainable because of this and a very committed membership.

19. As a result of the above, the police community have been “ahead of the game” in respect of some healthcare structures for the last 8–10 years in sharp contrast with those services which can be accessed by non-police victims under the National Health Service through GP referral. Whilst there cannot be any “one size fits all”, the police family have a model which others may wish to emulate.

20. The tenor of the Report favours “collaborative working” for victims. But it is important that the members of the wider police family continue to receive the care necessary for their particular and specific needs which have been recognised by successive governments over several decades. Police “victims and survivors” are owed a duty of care for the sacrifices they made during the “troubles”, sacrifices which continue to be made with an increase in referrals for treatment by retired members of the RUC.

21. Additionally, the recent fatal attacks in the province on members of the security forces, allied with the apparently organised attempts to bring parts of the province to a halt through bomb scares and hi-jackings, have reinforced the view held by many that the conflict is not yet over and that there is not yet sufficient “trust” in mainstream healthcare provision to allow for the proposed “collaborative working”. It is important that the wider police family are reassured as to the continuation of their funding into the future and that the provisions are sustainable.

22. If the recommendations in the Report are to be implemented, particularly in relation to “Processes of Justice and Information Recovery”, there is the potential for additional stress to be placed on retired police officers over the next seven years (minimum) with (re)traumatisation likely to occur.

23. Whilst it is important that areas such as trauma, suicide and addiction are addressed, it does not take the creation of another body to ensure the delivery of services. For example, the police service has developed programmes which address these areas and more, and they would be very happy to share their experience and structures with other organisations.

#### THE LEGACY COMMISSION

24. The RUC GC Foundation, for the reasons given earlier, does not see the need for a Legacy Commission.

#### SOCIETY ISSUES

25. The RUC GC Foundation agrees that it is important to tackle society issues arising from the conflict, although the help that could be provided to exiles living abroad might be rather limited. But the question has to be asked, again, does it take a Legacy Commission to progress these matters?

26. Northern Ireland already has a veritable raft of professionals and academics, from across a range of universities and other institutions, who have worked on these areas for years, often to much critical acclaim. Why does all this work now have to be packaged in a “Reconciliation Forum”?

27. The difficult area of sectarianism is already being tackled by existing groups—perhaps these groups need to receive more resources rather than giving birth to yet another institution with all the associated bureaucracy.

28. Whilst it is appreciated that there have been issues with the Christian Churches over the years, as with most areas of Northern Irish society, it is understood that the Churches themselves are aware of this and are taking action to address the issue.

29. In relation to the recommendation concerning those with conflict-related convictions, the RUC GC Foundation are opposed to any suggestion that people who committed crimes in the past should be dealt with outside of the already existing legal provisions such as the Rehabilitation of Offenders Order.

#### PROCESSES OF JUSTICE AND INFORMATION RECOVERY

30. It is the belief of the RUC GC Foundation that the PSNI should be properly resourced to undertake the investigation of historical cases rather than creating an “independent unit” to take such investigations forward. Ultimately neither the Historical Enquiry Team (HET) nor the Police Ombudsman of Northern Ireland (PONI) have any information of their own. They rely totally on the PSNI, security services and retired police officers for information. In reality other institutions are not needed—what is needed are people who know their way around the system which existed or currently exists.

31. The pernicious issue of “Equivalence” is raised under this heading. Equivalence is a theme which has permeated the thinking of the CGP and can be identified as running through the nomenclature of “information recovery”—however dressed-up. Whilst the state “side” (including those employed by the state) will have kept records from the past, what equivalent records will have been kept by others, including paramilitary organisations?

32. No one has ever said they were wrong and particularly terrorists, who received closure as a result of the Good Friday Agreement (GFA), have never conceded that their acts were morally wrong and repugnant. In some ways the ongoing investigations serve in a perverse way to almost legitimize the acts of the terrorists and equate them with the actions of the state.

33. The brutal fact is that if evidence or contributions to information recovery in this context are not tested to evidential standards in a court of law then any resultant conclusions are destined to be both tainted and unreliable.

34. The Report appears to suggest in a number of ways that the CGP are pre-disposed to believe those who have long alleged collusive activities between members of the security forces (police or UDR) and loyalist paramilitaries. To examine specific areas of paramilitary activity or alleged collusion with the same blunt instrument is wrong. Additionally, the CGP has disregarded various findings from the Director of Public Prosecutions where evidence of alleged collusion was not substantiated (notably, Stevens III) and also several cases where the Criminal Justice System was applied to RUC officers and acquittals ensued eg murder charges alleged to be “shoot to kill” in the Stalker Report era.

35. A question has to be raised in relation to whether this set of recommendations meets the CGP’s own “gold standard” of dealing with the past “in a manner which enables society to become more defined by its desire for true and lasting reconciliation, rather than by division and mistrust, seeking to promote a shared and reconciled future for all”.

36. The RUC GC Foundation agrees that there should be no new public inquiries and has no issue with the recommendation in relation to Inquests.

37. The Foundation would say that there is a de-facto amnesty for terrorist offences committed pre-1998.

#### REMEMBERING

38. As organisations such as the CVSNI, “Healing Through Remembering” and, indeed, the RUC GC Foundation are already either carrying out or planning valuable work in the area of remembering, why is there a need for the establishment of yet another body? As already mentioned, there is great potential for the CVSNI to progress matters in this area and they should be supported accordingly.

39. It is the view of the RUC GC Foundation that people need to be allowed to make their own mind up on how, when, where and whether they wish to carry out their own act of remembrance. Given that the “Day of Reflection” was developed by “Healing Through Remembering” (HTR), it is important that they are consulted and are comfortable with the outworkings of this recommendation.

40. The RUC GC Foundation would support the recommendation for the First Minister and deputy First Minister to deliver an annual keynote address to the Northern Ireland Assembly.

41. Quite how the people of Northern Ireland could be a signatory to the proposed “declaration” is unclear. Before it can be supported there needs to be clarification of the process.

42. As already stated, the RUC GC Foundation has much valuable expertise in relation to memorials etc which could be shared with other organisations.

#### CONCLUSION

43. In conclusion, it is hoped that the suggested debate will be held before any of the recommendations are implemented. Dealing with the past is an important issue for Northern Irish society but it has to be done with agreement and sensitivity. Otherwise it has the potential to create a situation where there is “one step forward and two steps back”.

22 April 2009

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#### Written evidence from Barry Gilligan, Chairman, Northern Ireland Policing Board

The Northern Ireland Policing Board (the Board) has a statutory duty to secure the maintenance of the police in Northern Ireland<sup>48</sup> and to hold the Chief Constable to account for the exercise of his functions and those of the police.<sup>49</sup> The Board welcomes the call for evidence on the feasibility of implementing the proposals of the Report of the Consultative Group on the Past.

The Board comprises 19 Members from across the political spectrum and individual party political submissions will be made to the Inquiry separately.

The Board’s submission to the Committee focuses on the operational implications for the PSNI in overseeing the review of historical cases, in particular through the Historical Enquiries Team (HET).

The HET is funded by the Northern Ireland Office (NIO) for £12.3 million for the next two years, which will end the current funding of £34 million. Estimates are that HET, if unchanged, could require a further two to three years work. At the same approximate level of spend, that would cost an additional £18 million, a total of £52 million for all cases. The Consultative Group on the Past Report referred to costs of £100 million for existing operations.

The Board does not offer an opinion on the role of the HET or the proposed Legacy Commission. Moreover it is the view of the Boards that the effectiveness and efficiency of the PSNI in preventing and detecting crime should not be compromised by dealing with various commitments to overseeing the review of historical cases.

Furthermore it is the Board’s view that responsibility rests with Government to ensure that the PSNI be provided with adequate funding to deal with policing the past. The Board remain committed to ensuring the Government deliver the necessary funding for PSNI in this area.

24 June 2009

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<sup>48</sup> Police (Northern Ireland) Act 2000 Section 3 (1).

<sup>49</sup> *Ibid* Section 3 (3).

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**Written evidence from Rt Hon Shaun Woodward MP, Secretary of State for Northern Ireland****COST OF THE CONSULTATIVE GROUP ON THE PAST**

Thank you for giving me the opportunity to announce the Government's public consultation on the Consultative Group on the Past's recommendations when I appeared before your Committee on 24 June. At that hearing, I agreed to write to the Committee with information about the costs of the Group, including the cost of producing the consultation paper and the payments made to Group members.

The consultation paper was printed using an in-house printing service for which there was no charge to my department. Because the papers were printed as part of a much larger print run by another department, it is not possible to quantify the precise cost of printing. The only charge the Northern Ireland Office incurred when launching the consultation related to the cost of placing public announcements in the Northern Ireland press (the *Belfast Telegraph*, *Irish News* and *News Letter*) to ensure that as wide a range of people as possible across Northern Ireland were aware of the consultation. This totalled £1,565.07.

The total cost of the Consultative Group over its 19 months of operation was £1.28 million. Of this, £556,000 was paid to the eight group members. The two co-chairs were paid a daily rate of £680 and the other group members were paid a daily rate of £350.

I understand that the Committee would also like to know whether I have invited comment from the Finucane family on the Group's proposals on Public Inquiries. The consultation is open to anyone to respond, but I have asked my officials to send copies of the consultation paper to, and invite comments from, everyone who engaged with the Consultative Group—this includes the family and representatives of Patrick Finucane. My officials also invited the Finucane family to share their views on the Report in correspondence earlier this year. So far, we have not received any views from the Finucane family.

16 July 2009

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