Thank you for your letter of 30 October 2014. I apologise for the slight delay in replying.

You have asked whether it would be possible for me to give evidence in person to the Committee. As you are already aware, a number of important constitutional conventions dictate the limits of judicial involvement with Parliamentary business, including that of select committees. Some of this is set out in the Judicial Executive Board’s guidance on judges’ appearances before select committees: I am sure you have already seen a copy but enclose one with this letter in case it is of use to the Committee.

As explained in the guidance, when judges appear before select committees, they are limited in the areas upon which they can comment. This is to protect the independence and perceived independence of the judiciary; and to ensure that responsibility for policy-making and legislation remains with the Government and Parliament.

You will understand in particular that it is not possible for judges to comment on the merits of Government policy and on cases in which they or colleagues have been concerned. It is my view, and that of the current and former Lord Chief Justice, that reviews and inquiries fall into this category and that Reports should be allowed to speak for themselves.

I completed my Report intending it to be a full and final record of my Review. I have not commented on the Review publicly since it was concluded. On that basis and, as the Office of the Lord Chief Justice has explained, there would be little that I could add to that which is already stated in my Report.

It is also important to stress that the scope and purpose of my Report was different from what the committee is seeking to achieve. My Review was a fact finding exercise restricted to the matters outlined in the terms of reference, namely:

- to produce a full public account of the operation and extent of the administrative scheme for “on-the-runs”;
- to determine whether any letters sent through the scheme contained errors; and
- to make recommendations as necessary on this or related matters that are drawn to the attention of the inquiry.

Further, as stated in my Report, given the timescale allotted to the Review, the Lord Chief Justice insisted on there being a document clarifying the purpose of the Review in greater detail so that there could be no misunderstanding. This is provided at paragraph 1.9 of my Report.
Before turning to your questions, I thought it would be helpful to set out the following segments of my Report:

Foreword

My team has examined thousands of documents, and worked hard to ensure that we have conducted as thorough and rigorous a Review as we could, in the time available.

1.17 It has been suggested that I should have made representations to the Secretary of State to turn this Review into a full Statutory Inquiry. For example, concerns have been expressed that the Review does not have the power to compel witnesses and that my interviews were conducted in private. However, none of those to whom I have sent questions or invited to attend an interview declined to co-operate and many have been examined in public by the Northern Ireland Affairs Select Committee. In any event, the Lord Chief Justice agreed to my appointment on the basis that the Review was fixed in time and by its scope, as explained above.

1.18 I should also make it clear that this is a ‘Government inquiry’ only to the extent that I was appointed by the Secretary of State for Northern Ireland and I shall Report back to her. In all other respects it is independent. No one has attempted improperly to influence my findings.

1.19 Concern has been expressed in several quarters about the extent of my terms of reference. I should emphasise that they were agreed by the Lord Chief Justice after very careful consideration. He was anxious to ensure that, as a serving judge, I embarked upon a fact-finding mission rather than a political debate.

1.23 I have not found myself inhibited by my terms of reference in getting to the truth of what happened as far as the development of the administrative scheme is concerned, and in identifying flaws in the scheme and potential errors.

1.28 In drawing up my Report, I have used a wide range of both open and closed source materials. The Review team and I have conducted interviews with over 40 individuals and spoken to or met a number of further contributors (most of whom are listed at Appendix 2). We considered submissions sent in response to our call for public evidence. We also conducted a disclosure exercise for relevant material across Government departments and authorities including the Cabinet Office, the Northern Ireland Office, the Attorney General’s Office, the Home Office, the Security Service, the Foreign and Commonwealth Office, the Police Service of Northern Ireland, the Public Prosecution Service for Northern Ireland and the Metropolitan Police Service. From this disclosure exercise, we obtained hundreds of files containing many thousands of documents. These included OTR case Review files, operational documents, ministerial policy submissions, minutes of meetings and departmental correspondence.

1.30 I am grateful to all those individuals, policing bodies, Government departments and other organisations who have facilitated and contributed to this Review. The spirit of openness and co-operation which I have encountered has been of great assistance in enabling me to deliver my Report in a timely fashion.

In the light of these extracts, I now turn to the specific questions in your letter.
Did you receive complete cooperation from HM Government during your Review?

The disclosure exercise entailed the Review Team asking various different Government departments and authorities to disclose any documentation of relevance to the terms of reference. Several Government departments took part in this exercise and the Review team received hundreds of files containing many thousands of documents. The selection of interviewees was restricted to the terms of reference. No Government department or official contacted by the Review team refused to cooperate. I believe that the Review team was provided with everything that it asked for in line with the terms of reference. This material was used to track any linked documents.

Did you consider that the time allocated to complete your Review was sufficient?

The time allotted was sufficient to address the terms of reference. The Review team included highly experienced lawyers who are adept at analysing vast amounts of documentation and evidence.

Did you consider it satisfactory that your Review was to be carried out in private?

I do not think that the interviewees would have been so forthcoming and cooperative had the Review been conducted in public. Further, no interview was conducted secretly. More than one person from the Review team was present during each interview and a proper record was taken of each interviewee’s evidence. The questions put to each interviewee were set by highly experienced lawyers.

How were the members of the Review team chosen; were they chosen by yourself or by HMG?

I chose the lawyers on the Review team, having made an initial assessment of the skills and expertise needed to address the terms of reference.

The remaining members of the team were independent civil servants selected from a range of Government Departments. The Secretary to the Review, a Ministry of Justice civil servant, was proposed to me on the basis of background, experience and skills and following discussions between senior Departmental officials. I conducted an interview and approved the appointment, which was made on the basis of a secondment to my Review, independent of any Government Department. The remainder of the support team was recruited by the Secretary, following expressions of interest from across Government Departments (excluding the Northern Ireland Office).

The two senior police investigators were appointed following the Review’s approach to the Independent Police Complaints Commission (IPCC), seeking recommendations for suitably qualified – and preferably recently retired – senior investigators with skills in investigating police services.

Did you have someone on the team that had a detailed knowledge of Northern Ireland issues?
Maura McGowan QC,¹ Leading Counsel to the Review, is a member of the Bar of Northern Ireland. She has extensive knowledge of Northern Ireland issues. Tom Little, Junior Counsel to the Review, acquired detailed knowledge of these issues as counsel instructed to conduct the disclosure exercise on behalf of the prosecution in *R v Downey*. I also carried out my own background research prior to the start of the Review.

**How did you draw up the list of people you wished to interview?**

The Review team identified the key individuals from our reading and research of the relevant materials and with the terms of reference in mind.

**How did you take evidence from them, was it face to face or over the telephone?**

Evidence from key individuals was taken face to face; evidence from others was taken over the telephone.

**Did you personally conduct all of the interviews, or were some carried out by other members of your team?**

Some of the interviews were conducted by members of the Review team; in these cases I gave direction to the team beforehand on the purpose of the interview and the questions to be asked.

**Were you concerned that you did not have the power to compel people to speak to you?**

**Did you encounter any resistance from people you wished to interview?**

**Did anybody actually refuse to speak to you?**

I can take these three questions together: none of the witnesses who were contacted refused to speak to the Review team.

**Were you allowed to see all of the written documents you wanted to, or were some denied to you?**

In light of the disclosure exercise explained in my answer to the first question above, I do not believe that there were any documents which I needed to conduct the Review (within the terms of reference) that were not made available to me.

I hope this assists the Committee with all outstanding matters in relation to my Report.

¹ Now Mrs Justice McGowan, from 1 October 2014.