Rt Hon Dr Julian Lewis MP  
Chairperson  
Defence Committee  
House of Commons  
London  
SW1A 0AA

July 2018

I am writing in response to your submission to the Legacy Consultation, ‘Addressing the Legacy of Northern Ireland’s Past’.

Firstly, I would like to thank you and the Committee for taking the time to respond to the consultation and forwarding a copy of the Committee’s Report, *Investigations into fatalities in Northern Ireland involving British military personnel*. It is important that we receive responses from a wide variety of stakeholders to help us better inform our decision-making process.

As I have stated on a number of occasions, I am unstinting in my admiration for the courage and professionalism displayed by our armed forces and the police during the Troubles. Without their contribution and in so many cases, sacrifices, there would quite simply have been no peace process in Northern Ireland. We will always salute them and never forget the debt of gratitude we owe them for upholding democracy and the rule of law and for ensuring that the future of Northern Ireland will only ever be decided by consent – never by terrorist violence.

I have read your submission and attached report; it is my understanding that there may be considerable legal difficulties associated with pursuing a statute of limitations that would apply only to the prosecution of members of the armed forces. I know that your committee heard evidence that a statute of limitations applying only to members of the armed forces would be inconsistent with the UK’s obligations under the European Convention on Human Rights (ECHR) and with other international obligations.
Within Northern Ireland, there is a specific concern that a statute of limitations for members of the armed forces would inevitably be extended to terrorists. In other words it would become in effect a general amnesty for troubles related incidents. It was clear during the lengthy Stormont House Agreement negotiations that there was no support within the Northern Ireland political parties, on all sides, for an amnesty. This was echoed last month by the Chairman of the Northern Ireland Police Federation who said: "This organisation is totally opposed to any legislation which proposes an amnesty for any crime. Any crimes, whether committed by police officer or terrorist from any side of the divide.

I have also met a number of victims of the Troubles and I know that for many - from across the community - the pursuit of justice remains important. Even after 40 years, the crimes committed during the Troubles were so terrible that some victims still cling onto the hope for justice. A statute of limitations would deprive these individuals of their right to justice under the law, the very thing our soldiers were deployed in support of the civil power in Northern Ireland to protect.

Another widely held concern in Northern Ireland is that a statute limitations would, however unwittingly, play into the hands of those who wish to re-write the history of the troubles and portray their actions as a legitimate 'armed struggle'. This is further fuelled by the use of terms such as 'conflict', 'combat' or even 'war', which Operation Banner certainly was not but which was a central part of the IRA narrative.

Those who wish to portray the British state as the oppressors and the Armed Forces as human rights abusers – still language used by dissident republicans in Northern Ireland to boost recruitment, and who continue to pose a SEVERE threat – will seize on this immediately as evidence that the state has things to hide and which it wants to cover up. You and I know that in the vast majority of cases members of the Armed Forces and RUC operated with immense professionalism. Unfortunately, a statute of limitations could undermine this argument. As Secretary of State in a Conservative and Unionist Government I would not be comfortable with that.

In addition, a statute of limitations would not do anything to address concerns that former members of the armed forces have over being called before coronial inquests. These would continue, and in the absence of the institutions set out in the Stormont House Agreement, likely intensify. A statute of limitations confined to members of the Armed Forces would also exclude the RUC, who for most of Operation Banner were in the lead against terrorism.

The current system of addressing the past is not working well for anyone. The consultation paper we have published sets out the areas where improvements can be made, and provides an overview of the legacy-related Stormont House Agreement proposals, describing the new institutions in detail. It also explains how the institutions are designed to address different aspects of the legacy of the past. The general principles underpinning the proposed new institutions are set out, including the requirement to operate in ways that are balanced, proportionate,
transparent, fair and equitable. I believe that these institutions provide the best way to address the legacy of Northern Ireland’s past. They offer the best chance of ending the current unfair and disproportionate focus on former members of the Armed Forces and the RUC.

It is clear that the current mechanisms for investigating the past are not delivering for victims. Right now too many cases are not being investigated, including hundreds of murders by terrorists. Implementing the consultation proposals will create the Historical Investigations Unit (HIU) which will be under a statutory duty to aim to complete its work within 5 years and to deal with deaths in chronological order.

The HIU will be under a legal duty to be fair, balanced and proportionate, to ensure that our veterans are not unfairly treated. The HIU will not be able to unnecessarily duplicate any investigation or part of it. The HIU will look at more deaths of security forces than deaths by security forces.

I understand the concern within the military community about investigations into cases from the past. As I said recently at the Northern Ireland Police Federation conference, no approach to addressing the past in Northern Ireland will ever be perfect. The consultation I launched last month set out proposals that I believe will improve the situation for former members of the security forces.

My officials will continue to work with their counterparts in the Ministry of Defence to ensure the views of the military community are properly represented in the ongoing legacy consultation.

RT HON KAREN BRADLEY MP
SECRETARY OF STATE FOR NORTHERN IRELAND