



House of Commons  
Northern Ireland Affairs  
Committee

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**HM Government  
support for UK victims  
of IRA attacks that  
used Gaddafi-supplied  
Semtex and weapons:  
follow-up: Government  
Response to the  
Committee's seventh  
Report**

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**Eighth Special Report of Session  
2017–19**

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## 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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The following Member was a member of the Committee during the inquiry

[Dr Andrew Murrison MP](#) (*Conservative, South West Wiltshire*)

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### Publication

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Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

### Committee staff

Margaret McKinnon (Clerk), Matthew Congreve (Second Clerk), George James (Committee Specialist), John Hitchcock (Senior Committee Assistant), Kelly Tunnicliffe (Committee Assistant) and Nina Foster (Media Officer).

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## Eighth Special Report

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The Northern Ireland Affairs Committee published its Seventh Report of Session 2017–19 [HM Government support for UK victims of IRA attacks that used Gaddafi-supplied Semtex and weapons: follow-up](#) (HC 1723), on 9 April 2019. The Government's response was received on 10 June 2019 and is appended below.

## Appendix: Government Response

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### Introduction

The Government notes the Northern Ireland Affairs Committee's follow-up report into HM Government support for UK victims of IRA attacks that used Gaddafi-supplied Semtex and weapons, published on 9 April 2019.

This Special Report sets out the Government's response to each of the Committee's conclusions and recommendations. The Committee's text is in *italics* and the Government's response is in plain text. Paragraph numbers refer to the Committee's report.

Conclusions and recommendations

### Securing compensation

1. *The Government has consistently held that it is not its responsibility to secure compensation for victims of Libyan Semtex, and that victims should pursue cases with the Libyan authorities individually. This is an untenable policy position. To state that victims have not exhausted all legal remedies ignores the reality of the current political situation in Libya, with its chaotic and unstable governance arrangements. Time has already run out for many victims. The Government must now enter into direct negotiations with the Libyan authorities to seek a compensation deal as soon as possible.* (Paragraph 19)

As the report acknowledges, the Government has a longstanding position of not pursuing government-to-government negotiations with Libya on behalf of victims of Qadhafi-sponsored IRA terrorism. Libya is considered to be a third party in Qadhafi-sponsored IRA terrorism. This has been set out in previous evidence to the Committee (cf. former Minister of State for the Middle East and North Africa, Mr Burt's, letter of 11 December 2018 to the Committee). We continue to provide facilitation support to victims, their representatives and campaign groups. Ministers and our diplomats continue to press the Libyan authorities to engage constructively. The Committee is right to reference the challenges posed by the political and security situation in Libya, which have deteriorated significantly since the Libyan National Army's (LNA) advance on Tripoli from 4 April. This is why the UK is calling on all Libyan parties to commit to an immediate ceasefire and secure a return to an inclusive political process; a stable Libyan government would be more able to deliver effectively on these legacy issues.

Following the former Minister for the Middle East and North Africa's commitment to this Committee to follow-up with Libyan counterparts, the Foreign Secretary raised this issue

with Libyan Prime Minister Serraj on 9 May. We are confident that the appointment of a Special Representative on UK victims of Qadhafi-sponsored IRA terrorism will bring greater focus to our efforts to support these victims.

2. *Whilst we welcome the announcement of William Shawcross to begin the long overdue process of calculating the amount of compensation due to victims, this role should extend much further. The role could help ensure greater cross-government working as previously suggested by the Minister but should also negotiate to secure a compensation agreement. Once the amount of compensation has been calculated, the Special Adviser must also have a role in securing compensation, espousing the claims of victims directly with the Libyan Government. Once the amount of compensation has been calculated, the Special Adviser must also have a role in securing compensation, espousing the claims of victims directly with the Libyan Government. The Special Adviser should regularly report to the Committee on their work.* (Paragraph 23)

The Special Representative's Terms of Reference are currently being worked out in consultation with other Government departments. It is proposed that Mr Shawcross will investigate the feasibility of calculating the precise amount of compensation due to victims from the Libyan government. Our current view is that it is not envisaged that the Special Representative will directly espouse victims' claims with the Libyan government.

### Libya's frozen assets

3. *We do not accept the argument that HMRC's duty of confidentiality means that this information cannot be released and the responses we received from the Treasury did not answer the points that we raised. We only wish to know, definitively, whether HMRC has collected tax on these assets, the aggregate total amount of any tax HMRC has received, and the amount it receives each year. We hope that the Office of Financial Sanctions Implementation will be able to provide more information on this issue. The Government should release information on how much tax has been collected from Libya's frozen assets. If tax is being collected, then the Government must explain why this money is not being used to finance a victims' reparations fund.* (Paragraph 33)

As stated in the Office of Financial Sanctions Implementation (OFSI)'s letter to the Committee of 23 April 2019, OFSI's responsibilities do not include tracking tax liabilities on frozen assets. HMRC, as the department responsible for safeguarding the flow of money to the Exchequer is responsible for any records of tax liability.

HMRC has reconsidered how we can help the Committee within the legal constraints governing our ability to share information. We have concluded that we can use aggregated information to answer the Committee's questions, provided that information cannot be tied back to individual persons or companies as a result.

HMRC receives payments of tax from a small proportion of the entities designated under the Libyan regime. Around £17 million has been received in total since the start of the 2016–17 tax year. HMRC currently receives around £5 million each year.

The Government has held discussions with UK Parliamentarians about how best it can support and facilitate the efforts of victims to obtain redress from the Libyan government. The Special Representative's precise terms of reference are being finalised but among

the issues Mr Shawcross will advise on is the amount of compensation that should be sought. The Government believes that any compensation plan should reflect the Special Representative's advice on this matter.

4. *We received contradictory information from the Government on the issuing of licences and we have subsequently learned that licences have been issued. This alone illustrates the need for an individual tasked with ensuring greater cross-government working in this area. The issuing of licences releasing the interest or revenue from frozen Libyan assets is a worrying trend, it is clear that these assets are being more actively managed than previously thought. It will be most unjust if all Libyan frozen assets are issued such licences and therefore released before a compensation package is agreed for victims of Libyan sponsored IRA terrorism. The Government should release as much information as legally possible on who licences are issued to and whether these financial institutions have in fact released the funds. In the future, the Government should inform Parliament via a Written Statement when HM Treasury intends to issue a licence for any frozen Libyan assets to be released. (Paragraph 37)*

As the competent authority for the implementation of financial sanctions in the UK, HM Treasury, through OFSI, ensures that financial sanctions are properly understood and enforced. An essential function of this role is implementing a robust licensing regime. OFSI can only consider licensing the release of frozen funds if the activity falls within the licensing grounds set out in the applicable legislation. The intention of the Libyan sanctions regime, as set out in UN Security Council Resolution 1970 (2011), is to ensure that assets of designated persons are frozen in order that they may, at a later stage, be made available to, and for the benefit of, the Libyan people. OFSI's policy is to preserve and protect the value of misappropriated Libyan government assets and to prevent their unnecessary depletion, and it carefully considers this context when applying the EU and UK sanctions regime licensing grounds. OFSI carefully scrutinises all relevant evidence as part of considering each licence application on a case-by-case basis before deciding whether to grant a licence. OFSI issues licences in strict adherence with the applicable law. An OFSI licence does not compel financial institutions to release funds. The decision to release funds lies solely with financial institutions.

Where licensing applications relate to the release of frozen funds, breakdowns of the sources of those funds are not required as part of the application. Similarly, if the release of frozen funds is authorised, the source of the funds, including whether they are interest or other earnings on frozen funds, is not specified beyond details about the payment route.

HM Treasury does not comment on licence applications made by individuals or entities. Where individuals apply for licences, OFSI is unable to disclose the names of the individuals to whom the licences were granted, as disclosure of this information would contravene data protection principles. HM Treasury must also observe any duty of confidentiality owed to those to whom licences have been issued.

HM Treasury issues licences within the parameters of EU and UK legislation where there is an applicable derogation to allow it to do so. As the prescribed decision-making body under EU and UK law, HM Treasury must make an independent and impartial assessment of licence applications. Any decision to grant a licence to deal with frozen assets or make funds or economic resources available to, or for the benefit of, designated persons must be made strictly in accordance with the relevant regulations. It would

therefore be inappropriate for there to be any external communication on OFSI's intention to grant a licence during the licensing process. OFSI's published Annual Review April 2017-March 2018 sets out the aggregate reported total of Libyan frozen funds in the UK. As at September 2017, this was £12,061,000,000. The Annual Review also sets out that 15 licences were issued under the Libya sanctions regime in the period covered by the Annual Review. OFSI will publish its Annual Review for 2018–2019 in the coming months.

## Conclusion

5. *Whilst the rhetoric of this Government has been supportive of the victims of Gaddafi-sponsored IRA terrorism, this is yet to translate into tangible progress in supporting and compensating those affected. This contrasts sharply with the actions of the governments of the United States, Germany and France who have secured compensation for victims. During our predecessors' inquiry, witnesses spoke of the terrible human consequences of Gaddafi's support and the suffering victims still endure. Many victims have died and will never receive the compensation they deserve. Compensation cannot undo the damage caused by Gaddafi's support, but it could help to alleviate the suffering of victims. The Government has a moral duty to act to support these individuals.* (Paragraph 38)

It is the Government's strong desire to see a just settlement for all victims of Qadhafi-sponsored IRA terrorism. As such, we are committed to supporting these victims and we are confident that the appointment of a Special Representative will bring greater focus to our efforts.

The governments of the above-mentioned countries secured compensation for victims of attacks which were alleged to have been directed by the Libyan government. These acts fall into the same category as the Lockerbie bombing and the killing of WPC Fletcher, for which HMG did secure compensation. In the case of WPC Fletcher, the Qadhafi government accepted 'general responsibility'. The Libyan government accepted responsibility in 2003 for 'the actions of its officials' relating to the Lockerbie bombing, and a Scottish court sitting in the Netherlands convicted a Libyan national charged with carrying out the bombing.

Securing compensation for victims of attacks indirectly enabled by the Libyan government is inevitably more complex. This is so, under the rules of International Law of State Responsibility. Despite this, it is the Government's strong desire to see a just settlement for all victims of Qadhafi-sponsored IRA terrorism. As such, we are committed to supporting these victims and we are confident that the appointment of a Special Representative will bring greater focus to our efforts.

6. *We welcome Government action in appointing an individual to assess the level of compensation necessary for victims. However, the Government can do much more, namely empowering the adviser to have a role in securing compensation for victims and engaging in direct government-to-government negotiations with the Libyan authorities. The Government should also release clear information on the taxable status of, and taxes collected from, Libya's frozen assets and outline whether the case has been considered for compensating victims from this. The information requested on licences issued for accessing frozen Libyan assets should also be made publicly available, and the House should be notified when they are issued. The Government should carefully consider decisions to issue licences in the future when linked to compensation for victims.* (Paragraph 39)

Our current view is that it is not envisaged that the Special Representative will engage in direct government-to-government negotiations with the Libyan authorities.

HM Treasury must adhere to data protection principles and any duty of confidentiality owed to those to whom licences have been issued.

OFSI carefully assesses relevant evidence when considering all licence applications, and licences are only issued in strict adherence to the applicable law. The total number of licences issued under the Libya sanctions regime from April 2017 to March 2018 was published in OFSI's Annual Review April 2017-March 2018, which is publicly available.