



House of Commons
Northern Ireland Affairs
Committee

**HM Government
support for UK victims
of IRA attacks that
used Gaddafi-supplied
Semtex and weapons:
Government Response
to the Committee's
Fourth Report of
Session 2016–17**

First Special Report of Session 2017–19

*Ordered by the House of Commons
to be printed 13 September 2017*

HC 331
Published on 15 September 2017
by authority of the House of Commons

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).

Current membership

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

[Mr Gregory Campbell MP](#) (*Democratic Unionist Party, East Londonderry*)

[Maria Caulfield MP](#) (*Conservative, Lewes*)

[Mr Stephen Hepburn MP](#) (*Labour, Jarrow*)

[Lady Hermon MP](#) (*Independent, North Down*)

[Kate Hoey MP](#) (*Labour, Vauxhall*)

[Jack Lopresti MP](#) (*Conservative, Filton and Bradley Stoke*)

[Conor McGinn MP](#) (*Labour, St Helens North*)

[Nigel Mills MP](#) (*Conservative, Amber Valley*)

[Ian Paisley MP](#) (*Democratic Unionist Party, North Antrim*)

[Jim Shannon MP](#) (*Democratic Unionist Party, Strangford*)

Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

Committee reports are published on the Committee's website at www.parliament.uk/niacom and in print by Order of the House.

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

Committee staff

Margaret McKinnon (Clerk), Elektra Garvie-Adams (Committee Specialist), John Hitchcock (Senior Committee Assistant) and George Perry (Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Northern Ireland Affairs Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 2173; the Committee's email address is northircom@parliament.uk.

First Special Report

The previous Northern Ireland Affairs Committee published its Fourth Report of Session 2016–17, [HM Government support for UK victims of IRA attacks that used Gaddafi-supplied Semtex and weapons](#), on 2 May 2016 as House of Commons Paper HC 49. The response from the Government was received on 8 September 2017 and is appended below.

Appendix: Response from the Government

Introduction

The Government notes the Northern Ireland Affairs Committee's report on HM Government support for UK victims of IRA attacks that used Gaddafi-supplied Semtex and weapons, published on 2 May 2017.

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.

The delay in publishing the response is due to the 8 June General Election and corresponding purdah period. The Government is grateful for the patience of those awaiting our formal response to the Committee's response.

Conclusions and Recommendations

Colonel Gaddafi and the IRA

1. *There is no doubt that the weapons, funding, training, and explosives that Colonel Gaddafi provided to the Provisional IRA over the course of 25 years both extended and exacerbated the Northern Ireland Troubles, and caused enormous human suffering. Whilst other countries have sought compensation from the Libyan Government for its role in fostering terror, the UK Government has not done so, instead leaving the matter for victims themselves to resolve. We pay warm tribute to the quiet dignity and determination of those individuals and organisations who have campaigned tirelessly over the years to rectify this injustice. As they grow older, time is running out for many of the victims, and so we hope this Report will encourage the next Government to adopt a fresh approach which secures the compensation these people deserve. We hope also that our successor Committee will continue to campaign on this issue in the 2017 Parliament, until there is a satisfactory resolution for the victims.* (Paragraph 9)

The Government expresses its sincerest sympathies to victims of Gaddafi-sponsored IRA terrorism for their injuries and loss, and indeed to all victims of the Troubles in Northern Ireland. The Government agrees that weapons, funding, training and explosives provided by Gaddafi to the Provisional IRA extended and exacerbated the Troubles, and contributed to great human suffering in both Northern Ireland and in Great Britain.

The UK Government wants to see a just solution for all victims of Gaddafi-sponsored IRA terrorism, and actively seeks to support this aim wherever able to do so. While HMG considers compensation claims to be private matters, the Foreign and Commonwealth

Office provides facilitation support to victims, their representatives and campaign groups, where it has been requested and is appropriate, to assist their efforts to engage with the Libyan authorities in pursuit of compensation. We continue to raise the issue of compensation for victims of Gaddafi-sponsored IRA terrorism with the Libyan Government at the highest levels. The Foreign Secretary most recently raised this with Prime Minister Serraj during his visit to Libya on 4 May 2017 and again when visiting Tripoli on 23 August 2017.

The Government's relationship with the Gaddafi regime

2. It is not clear how far the Tony Blair Government was aware of the campaign to seek compensation for the victims of Gaddafi-sponsored terrorism, and how far that Government pursued the matter with the Libyan authorities. Whatever the reality of the situation was, we believe the UK Government missed a vital opportunity, during the period in which Libya was seeking a rapprochement with the west, to act on behalf of IRA victims by placing this issue firmly on the negotiating table to secure a compensation package. (Paragraph 21)

In 1995, Libya provided information to the UK Government, as required by UN Security Council Resolution 748 (1992), about the support it had given to the IRA. The Gaddafi regime subsequently cut off supply to the IRA. This decision to renounce support for the IRA was central to negotiations between Libya and the UK, and a key factor in the restoration of diplomatic relations in 1999. It significantly limited the IRA's capability to conduct attacks. As the Committee notes, this was an important step in the Northern Ireland peace process, which ultimately led to the Belfast Agreement.

The Government notes the Committee's view that an opportunity to secure compensation may have been missed at that time [under Tony Blair's Government], but emphasises the particular challenges of pursuing compensation for IRA attacks made possible by Gaddafi regime support [see response to question 4]. The focus of the then Government's efforts was on ending Libya's supply of weapons to the IRA and preventing further suffering and attacks.

3. We should emphasise that the conclusions and recommendations in this Report encompass all UK victims of Gaddafi-sponsored terrorism by the Provisional IRA, and not just those victims who were named in the McDonald writ. (Paragraph 23).

The Government acknowledges that this report's conclusions and recommendations refer to all UK victims of Gaddafi-sponsored terrorism by the Provisional IRA, and not just those victims covered by the McDonald writ.

4. The exclusion of the UK victims of Gaddafi-sponsored terrorism from the terms of the US-Libya Claims Settlement Agreement 2008 was another missed opportunity to resolve the issue of compensation. Although the then UK Government claimed it had made representations to the US for the victims' inclusion, we received no evidence of the level they were made, and with what force. That said, even assuming that the UK Government had put its full weight behind the victims' cause, it cannot be known now, almost 10 years later, whether it would have affected the US Administration's position. Whatever its reasons were, it is deeply regrettable that, in 2008, the US appears not to have been willing to assist the UK in delivering justice for its victims. However, this does not absolve the former Labour Government for having failed to pursue the issue of compensation itself bilaterally

with Libya with the same determination and vigour demonstrated by the Governments of France, Germany and the US. Had it done so, it might well have been equally successful. (Paragraph 33)

The UK Government made representations to the US and Libyan authorities during the negotiations for the 2008 US-Libya Claims Settlement Agreement. The US was unable to include UK victims in the Agreement for a number of legal reasons, including that neither international nor US law allows the US to espouse the claims of foreign nationals.

The report highlights that the Governments of France and Germany secured compensation for the bombing of UTA Flight 772 and the bombing of La Belle Discotheque in Berlin respectively. Similarly, the UK Government helped to secure compensation for the victims of the Lockerbie bombing and for the family of WPC Yvonne Fletcher. Compensation was possible in these cases because of evidence that the attacks were planned and executed directly by the Libyans.

By contrast, Libya was a third party in IRA terrorism: the Gaddafi regime provided support to the IRA but did not direct or carry out the attacks itself. This in no way lessens Libyan responsibility, but makes it more challenging to pursue compensation. Nonetheless, the UK Government will continue to raise this issue with the Libyan authorities and highlight the key role the Gaddafi regime played in enabling the IRA to carry out such attacks.

5. We have already deprecated the then UK Government's failure to pursue the issue of compensation when Libya was brought in from the cold in the early 2000s. However, it is not clear that Mr Blair's influence after leaving office was such that he could have made a material difference to the outcome of the US-Libya Claims Settlement Agreement 2008. Besides, he had ceased to be Prime Minister in June 2007. Negotiations between the US and Libya in 2008 took place on a bilateral basis, and whilst Sir Vincent Fean's email suggests that Mr Blair played some role in encouraging an agreement, it also suggests that it was not pivotal. We have already noted that the US Administration declined to include the UK victims in the terms of the LCSA. (Paragraph 36)

The Government of the day made representations to the US about the inclusion of UK victims in the US-Libya Claims Settlement Agreement in 2008. The Government is not able comment on Mr Blair's role after he left office. Mr Blair also submitted written evidence to the Committee.

6. The establishment of the FCO's Libya Reconciliation Unit represented an acknowledgement by the then UK Government that it could not continue to ignore the campaign for compensation by the UK victims of Gaddafi-sponsored IRA terrorism. However, its support for the parliamentary delegation which visited Libya in 2009 underlined the fact that only direct government-to-government negotiations would have carried sufficient weight in pressing the victims' case. With the complete collapse of the Gaddafi regime in 2011, an eight-year window of opportunity, during which successive UK Governments could have sought to resolve this issue, had closed. (Paragraph 42)

In 2009, then Prime Minister Gordon Brown commented that despite the efforts of successive Governments over many years, the Libyans had refused to accept a treaty or normal intergovernmental agreements on the issue of compensation for victims of Gaddafi-sponsored IRA terrorism. As a result, HMG judged that the course of action

which was most likely to succeed and bring results was to support the families in their legal representations through their lawyers to the Libyan authorities. This is what we have been doing.

The FCO's Reconciliation Unit was therefore established to provide support to victims and their representatives in their efforts to secure compensation from Libya. HMG provides facilitation support to victim groups when requested and appropriate; updates them on the latest political developments on the ground; and makes clear to the Libyan authorities at the highest levels of the importance of resolving outstanding legacy cases.

Developments in Libya since the fall of the Gaddafi regime have caused insecurity and political instability. The Libyan authorities face a number of significant and immediate political, security and economic challenges. This means that progress on compensation cases remains slow. Nonetheless, the Government continues to stress the importance we place on legacy issues to the Libyan authorities, including on the Foreign Secretary's most recent visit to Libya.

The Government's relationship with Libya after Gaddafi

7. Whilst there was initial optimism that the Coalition Government would take a different approach on the issue of compensation after the fall of Gaddafi, that Government's rhetoric did not translate into any tangible progress. This was, yet again, a missed opportunity. The fact that lawyers acting on behalf the UK victims were able to have the then Chairman of the National Transitional Council of Libya sign a statement in support of providing compensation early in 2011, suggests to us that, if the Coalition Government itself had taken up this issue at that time, it would have had a good chance of reaching an agreement. (Paragraph 52)

The Government recognises the significant efforts of Jason McCue, representing a number of the IRA victims, who travelled to Benghazi in 2011 to meet with the then Head of the National Transitional Council (NTC). However, the Government does not judge that it would have been possible to secure formal or legally binding agreement with the NTC at this time. While the NTC was recognised by the international community as the sole legitimate representative of the Libyan people in 2011, it was also a transitional body with limited authority or mandate to make long-term decisions. It handed over power to the elected General National Congress in 2012. HMG is committed to raising the issue with the relevant authorities to ensure it stays on the bilateral agenda. This includes the current Government of National Accord: the Foreign Secretary most recently raised legacy issues with PM Serraj during his visits in May and August 2017.

8. Over the next few years, the UK Government may well play a key role in the reconstruction of Libya, both in terms of financial and political support. If so, this would present an ideal opportunity for the Government to leverage a response in kind from the Libyans by finally resolving the issue of compensation for the UK victims of Gaddafi-sponsored IRA terrorism. This can only be achieved through direct government-to-government negotiations. Statements made by the Libyan Deputy Prime Minister acknowledge this is an issue that the Government of National Accord needs to consider. We believe that, with sufficient determination, the UK Government should be able to reach an agreement. But, as one of our witnesses said: "it requires somebody to bang on their door, not with a wet sponge, but [with a] bang". (Paragraph 57)

It is in the UK's national interest to continue to provide political and practical support to Libya: an unstable Libya poses a threat to UK and European security. HMG will therefore likely continue to offer support to Libya, particularly to prevent instability that can be exploited by violent extremists and human traffickers. The Government does not believe it would be in the UK's national interest to make this support conditional on resolution of the issue of compensation for victims; and that attempting to do so would be unproductive and may threaten our overall bilateral relationship and other key national security objectives.

However, the Government commits to use our bilateral relationship to emphasise the importance we place on legacy cases, including the issue of compensation for victims of Gaddafi-sponsored IRA terrorism. Foreign and Commonwealth Ministers have raised this frequently with their Libyan counterparts: Mr Ellwood, then Minister responsible for the Middle East and North Africa, discussed it with Libyan Prime Minister Serraj in Tunis in November 2015 and with the former Foreign Minister Mohammed al-Dayri in March 2016; and the former Foreign Secretary, Philip Hammond, visited Tripoli in April 2016 and raised legacy issues with Foreign Minister Siala. The current Foreign Secretary has also raised the issue of compensation with Prime Minister Serraj during the Libya Ministerial meeting in London on 31 October 2016 and during his visits to Tripoli in May and August 2017. On all occasions he has emphasised the continued suffering of the victims and underlined the need to find a just solution. Both Prime Minister Serraj and Foreign Minister Siala have expressed their sympathy for the victims, but reiterated that until stability is returned to Libya, there were not in a position to support or to offer a solution. Nevertheless, HMG remains committed to urging progress.

Compensation options

9. *For the last six years in which the UK victims have sought compensation from Libya, almost £9.5 billion of assets from the Gaddafi regime have sat frozen within the UK's jurisdiction. This has understandably been a source of great frustration to the victims and their representatives. It is bitterly disappointing that there is no evidence to suggest the then Government raised the issue of compensation at the time of the negotiations on the UN resolutions in 2011—not least because there are precedents for the use of frozen assets to compensate victims. As they currently stand, however, the UN Resolutions and the EU Regulation, which enforces them in the UK, provide no options for the UK Government to use the frozen Libyan assets for the purposes of compensation. The Government's view is that any attempt to renegotiate the UN Resolutions and the EU Regulation is unlikely to be successful. Moreover, the Foreign Office has unequivocally ruled out the possibility of pursuing the assets frozen within the UK's jurisdiction. (Paragraph 67)*

The Government notes the Committee's acknowledgement that UN Resolutions and EU Regulations mean it would be against the UK's international legal obligations to seize or appropriate Libyan assets frozen in the UK for the purposes of compensation.

Access to the frozen assets, including sovereign wealth funds and of designated Libyan individuals, can only be licensed in accordance with the grounds set out by the UN and the EU. In the UK, as the competent authority for administering sanctions, HM Treasury is responsible for licensing derogations from financial sanctions. There are seven licensing grounds applicable in the Libya sanctions regime; and, to summarise, they allow for payments in the following categories:

- (1) The basic needs of the designated person
- (2) The legal fees of the designated person
- (3) Fees for the routine maintenance of frozen assets
- (4) Extraordinary expenses of the designated person
- (5) Satisfaction of judicial or administrative orders enforceable in the EU
- (6) Humanitarian purposes
- (7) Obligations arising under contracts prior to the imposition of sanctions.

Treasury licence would not compel the payment to be made, but would simply provide that the payment would not be a breach of financial sanctions. In this case, it is HMG's view that there are no grounds in the EU Regulation, and therefore no legal basis, which would permit a licence to be issued for the purposes of releasing frozen funds to compensate victims of Gaddafi-sponsored IRA terrorism.

The UK Government reaffirms that seizing Libyan assets frozen in the UK to compensate victims is not a feasible option for HMG to pursue.

10. We have previously stated that the UK Government should enter into direct negotiations with the Libyans to seek a compensation deal. In the pursuit of justice and accountability, it would be preferable for the Libyan authorities to voluntarily agree a compensation package than for the UK Government to act unilaterally. In achieving this, we believe the frozen assets could still provide the Government with some leverage, which it can use in those negotiations whilst still abiding by the terms of the UN Resolutions. (Paragraph 68)

The Government agrees with the Committee that it would be preferable for the Libyan authorities voluntarily to agree to compensation, rather than the UK Government acting unilaterally. We will continue both to adhere to our international legal obligations under UN Resolutions and EU Regulations with regards to frozen Libyan assets, and to make clear to the Libyan authorities the importance we attach to the issue of compensation for victims of Gaddafi-sponsored IRA terrorism.

11. Time is running out for many of the UK victims, who have already waited too long to see justice delivered. If, by the end of 2017, it is apparent that the situation in Libya remains such that direct government-to-government negotiations on a compensation deal are not possible in the short to medium term, we believe the UK Government should itself establish and finance a reparations fund ahead of the outcome of such negotiations. Such a fund would provide payments both to community projects, and individuals, whether as a one-off payment or as a pension. This would allow the UK Government to make progress on the job of establishing a list of eligible victims across the UK—a task that has the potential to further delay the payment of compensation, if it is not begun as soon as possible. Starting this work now would also have the advantage of enabling the Government to quantify the scale of compensation it should be seeking from the Libyan authorities. (Paragraph 73)

As we explained in our evidence to the Committee and in our recent updates to victims' groups and their representatives, early and substantial settlement with the Libyan

authorities in the favour of victims is unlikely, given the political, security and economic challenges facing Libya. HMG will continue to raise this with the Libyan Government, but we judge that quick progress is unlikely.

The Government notes the Committee's recommendation that the UK should establish a fund to provide financial compensation and support specifically to the victims of Gaddafi-sponsored terrorism, while simultaneously taking forward negotiations with the Libyan authorities. HMG has considered in detail the feasibility of establishing such a fund and at this stage has concluded that it is not a viable option. The Government also notes the potential challenges of making additional UK resources available specifically to the victims of Gaddafi-sponsored IRA terrorism, which would need to be considered carefully against Government support to victims of terrorism more generally, including in Northern Ireland.

A number of schemes and programmes exist to support victims in Northern Ireland and Great Britain. Responsibility for compensation of victims of the Troubles in Northern Ireland is devolved to the Northern Ireland Executive, which oversees the Northern Ireland Criminal Injuries Compensation Scheme. Also in Northern Ireland, the Victims and Survivors Service supports individual victims as well as organisations providing services to improve the wellbeing of victims and survivors. In 2014, the Stormont House Agreement (SHA) contained a commitment that the Commission for Victims and Survivors' recommendation for a comprehensive Mental Trauma Service would be implemented. The SHA also contained a commitment that the Northern Ireland Executive would take steps to ensure that victims and survivors have access to high quality services. Victims and survivors would be given access to advocate-counsellor assistance if they wished.

The Stormont House Agreement also states that "further work will be undertaken to seek an acceptable way forward on the proposal for a pension for severely physically injured victims in Northern Ireland". This is being taken forward by the Executive Office. The UK Government is monitoring the situation in Northern Ireland regarding the proposals for victims' pensions, in order to assess the impact for victims in Great Britain.

Victims of Gaddafi-sponsored IRA terrorism who were injured as a result of violent crime in Great Britain may be eligible to apply for compensation under the Criminal Injuries Compensation Scheme, including for payments to cover loss of earnings or life-long expenses. The scheme is administered by the Criminal Injuries Compensation Authority (CICA). For victims who have not already applied for criminal injuries compensation, any claim now will be submitted outside the two-year time limit for applications, although the scheme does allow the CICA to waive the two year time limit in exceptional circumstances. Each case would be assessed on its own merits. Applicants can get assistance to apply for criminal injuries compensation or for any question about the application process by contacting the CICA's Customer Service Centre advisors on 0300 003 3601. Information about the Scheme can also be found at the following link: <https://www.gov.uk/guidance/criminal-injuries-compensation-a-guide>.

The Ministry of Justice provides funding to the Tim Parry Johnathan Ball Foundation for Peace for the provision of medium to longer-term specialist support for victims of terrorism, delivered via the Foundation's Survivors' Assistance Network. The Ministry of Justice also provides funding to a range of organisations to provide practical, emotional

and specialist support to families bereaved by crime, including when caused by terrorist attacks. Further information about the Foundation can be found at the following link: <http://foundation4peace.org/>

12. This Report has shown how victims have been repeatedly let down by various Governments - Labour, Conservative, and Coalition. As one witness put it: "we are the forgotten ones [...] the ones who for reasons utterly beyond my comprehension, successive UK Governments have chosen to overlook". It is time for the UK Government to address this injustice, and to do so without further delay. (Paragraph 74)

The Government expresses its sincerest condolences to the victims of Gaddafi-sponsored IRA terrorism and their families, and acknowledges their disappointment that their claims for compensation have not yet been successful. HMG wishes to see a just solution to their suffering and has made this clear to successive Libyan Governments. We shall continue doing so. The Foreign and Commonwealth Office will also continue to provide regular updates to victims, their representatives and campaign groups, as well as facilitation support for their engagement with the Libyan authorities where possible.