



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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Committee against Torture

**Information received from the United Kingdom of  
Great Britain and Northern Ireland on follow-up  
to the concluding observations on its sixth periodic  
report\***

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\* The present document is being issued without formal editing.

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1. The UK Government is grateful to the Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for its recommendations following the dialogue on our sixth periodic report which took place in May last year. The Committee requested that we provide follow-up information on three groups of recommendations in its concluding observations and the UK Government's response is provided below.

2. The Committee also invited the UK Government to provide information on plans to implement some or all of the remaining recommendations. Given the challenges and changes the Coronavirus pandemic has brought to everyone's lives and the subsequent and understandable focus of Government on saving lives, the UK Government does not feel now is the right time to address this element of the concluding observations, but we will return to this.

3. The UK Government is committed to protecting and respecting human rights. The UK has strong human rights protections within a comprehensive and well-established constitutional and legal system, and a longstanding tradition of ensuring rights and liberties are protected domestically and of fulfilling our international human rights obligations.

4. The UK Government strongly supports the work of the United Nations treaty bodies and regards them as central to the broader human rights system.

### **Response of the United Kingdom Government to follow-up issues**

5. On 7 June 2019, following its examination of the United Kingdom's Sixth Periodic Report under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Committee Against Torture requested that the UK Government provide information on follow-up to the Committee's recommendations on the sexual abuse of children in detention (para. 19 of its concluding observations on the examination), accountability for any torture and ill-treatment committed by United Kingdom personnel in Iraq from 2003 to 2009 (para. 33) and accountability for conflict-related violations in Northern Ireland (para. 41 (a) and (d)-(f)).

6. The response of the UK Government is set out below.

### **Introduction**

7. The UK Government takes allegations of torture and cruel, inhuman or degrading treatment very seriously and any allegations are investigated appropriately. The UK Government does not participate in, solicit, encourage or condone the use of torture for any purpose.

8. Torture is a criminal offence in the UK under section 134 of the Criminal Justice Act 1988, with a maximum penalty of life imprisonment. Aiding and abetting torture is a criminal offence under section 8 of the Accessories and Abettors Act 1861 and subject to the same maximum penalty. Further, Article 3 of the European Convention on Human Rights, as given further effect in the Human Rights Act 1998, provides that no one shall be subjected to torture, inhuman or degrading treatment or punishment, and victims can rely upon this right in civil and criminal proceedings.

### **Sexual abuse of children in detention**

#### **Follow-up information relating to paragraph 19 (a) of the concluding observations (CAT/C/GBR/CO/6)**

9. Protecting the safety and welfare of children in the care of the state is one of our highest priorities and no child should be subject to physical, mental or sexual abuse. We are taking comprehensive measures to eradicate all forms of abuse of children in the care of the state and we act promptly and firmly when abuse is suspected, reported or proven. The UK Government acknowledged that the findings in the Independent Inquiry into Child Sexual Abuse's report on youth custody were shocking and responded positively to its recommendations. The response can be found at: <https://www.gov.uk/government/publications/sexual-abuse-of-children-in-custodial-institutions-government-response>.

10. In addition, within England and Wales, HM Prisons and Probation Service's Youth Custody Service (YCS) has carried out a review of safeguarding practice and procedures in the youth custody service. The review made over one hundred recommendations for improvement, all of which will be implemented. The review can be found at: <https://www.gov.uk/government/publications/youth-custody-service-safeguarding-review>.

11. All cases of violence against a child will now be tracked through a safeguarding referral process, which will enable a better understanding of cases of violence and sexual assault. In addition, establishments within the youth secure estate are obligated to report complaints from young people that amount to sexual assault to the Local Authority Designated Officer (LADO). The LADO will investigate allegations and, where necessary, liaise and inform the police. In cases where allegations are investigated and substantiated, the appropriate sanctions will be applied, including criminal proceedings. It will be for the courts to determine what sentence will apply where an abuser is found guilty of an offence.

12. The YCS Safeguarding team liaises regularly with the group of LADOs who work in boroughs that host an establishment. This ensures good practice is shared and thresholds and expectations are understood.

#### **Follow-up information relating to paragraph 19 (b) of the concluding observations**

13. Within the youth justice system, there are many effective complaints mechanisms in place. Each Young Offender Institute (YOI) has its own Independent Monitoring Board whose members speak confidentially to young people and assist them in making complaints and follow up these complaints with the establishment. YOIs and Secure Training Centres (STCs) also have an Independent Children's Rights and Advocacy Service, delivered by the children's charity Barnardo's, which raises concerns on behalf of young people. Privately run STCs have on-site monitoring teams that directly engage with young people. In addition, the YCS Matters of Concern process enables parents and guardians or other people representing children to escalate concerns. This policy was last reviewed in January 2020. In conjunction with this, each establishment has a complaints process through which young people can raise complaints.

#### **Follow-up information relating to paragraph 19 (c) of the concluding observations**

##### *Judiciary*

14. Judicial training in England and Wales is the responsibility of the Lord Chief Justice under the Constitutional Reform Act 2005 section 7(2)(b) and is undertaken by the Judicial College. Judges in England and Wales do not have a specific role in preventing the abuse of children in detention, however they do receive specialist training in hearing such cases. Judges who hear criminal cases involving serious sexual offences in a criminal court context require specialist authorisation. The Judicial College provides specialist training to those granted the authorisation and they must attend regular refresher seminars thereafter. Additional training materials, both written and e-learning, are regularly made available to such judges via the College's Learning Management to ensure they stay entirely up-to-date on developments in the law.

15. Further, the Equal Treatment Bench Book (ETBB), which was recently revised in March 2020, is guidance given to the judiciary to increase awareness and understanding of different circumstances of people appearing in courts and tribunals. The ETBB is publicly available online at this link: <https://www.judiciary.uk/wp-content/uploads/2018/02/ETBB-February-2018-amended-March-2020.pdf>.

16. Chapter 2, concerning *Children, Young People and Vulnerable Adults*, highlights the judiciary's role in safeguarding; detailing guidance and considerations on how to deal with children and vulnerable parties appearing in courts and tribunals.

##### *Prosecutors*

17. The Crown Prosecution Service (CPS) case referral criteria specify that such cases must be referred to relevant specialist units within the CPS; such cases are likely to be dealt with by the Special Crime Unit (SCU). All deaths in custody (involving an agent of the state) engage Article 2 of the European Convention on Human Rights as given further effect in the Human Rights Act 1998 and must be referred to the SCU. Certain

police/prison complaint cases must also be referred to the SCU. The CPS publishes legal guidance on all relevant offences but there is no formal training; the prosecutors working in the SCU are experienced prosecutors.

#### *Police*

18. The College of Policing is the professional body for everyone who works for the police service in England and Wales and provides those working in policing with the skills and knowledge necessary to prevent crime, protect the public, and secure public trust. Guidance for the police on how to handle complex investigations into child sexual abuse and child sexual exploitation is contained in the College's Authorised Professional Practice (APP) on Major Investigation and Public Protection which is regularly updated: <https://www.app.college.police.uk/app-content/major-investigation-and-public-protection/>.

19. The College has also been improving the training available in respect of safeguarding and vulnerability to ensure that leaders at all levels prioritise, recognise and respond to safeguarding and vulnerability effectively across different settings. For example:

- There is now enhanced coverage of vulnerability in the curriculum for the Police Constable Degree Apprenticeship. The vulnerability curriculum is now a formal part of all new recruit entry programmes, including direct entry at inspector and superintendent level;
- The Management of Serious Crime Investigations Development Programme, aimed at Detective Inspectors, includes a case study around vulnerability and public protection aligned to the advice in APP;
- The Specialist Child Abuse Investigation Development Programme trains child abuse investigators to support particularly vulnerable child victims through the criminal justice system.

20. More broadly, Senior Investigating Officers are also trained to manage and oversee complex investigations through the Senior Investigating Officer Development Programme and the Counter-Corruption Development Programme.

21. In June 2014 the police established Operation Hydrant as a coordination hub to deliver the national policing response, oversight, and coordination of non-recent child sexual abuse investigations concerning persons of public prominence, or in relation to those offences which took place within institutional settings; this includes custodial settings. Operation Hydrant does not carry out individual investigations (this is done by individual Forces) but it coordinates information among Forces to prevent duplication and ensure an effective response. Operation Hydrant also provides guidance and support to Forces carrying out such investigations.

## **Accountability for abuses in Iraq**

### **Follow-up information relating to paragraph 33 of the concluding observations**

#### *Service Police Legacy Investigations*

22. Service Police Legacy Investigations (SPLI) was established in July 2017 following the decision to close the Iraq Historic Allegations Team (IHAT) and transfer its, by then greatly reduced, caseload back to a Service Police body. SPLI took on a caseload comprising approximately 1,280 allegations.

23. The UK Government rejects the claim, cited in para. 32 of the Committee's concluding observations, that SPLI has inappropriately discontinued investigations into allegations of torture or ill-treatment "based on an arbitrary and conceptually underinclusive ranking of their severity".<sup>1</sup>

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<sup>1</sup> The concluding observations refer to Redress, *The UK's Implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Civil Society Alternative Report* (London, March 2019), p. 73.

24. Since 2013, when the High Court appointed a Designated Judge to oversee progress of investigations into allegations arising from operations in Iraq, the UK Government has provided regular updates to the Court on investigative progress and methodology.

25. The Court has made no criticism of the categorisation of cases (reflecting the severity of the allegations, and of the physical and mental harm suffered) nor of the investigative processes. These have been designed to ensure allegations are investigated appropriately, and to enable investigative resources to be prioritised.

#### *Single public inquiry*

26. The UK Government considers that a single public inquiry would serve no useful purpose. Allegations against UK Forces in Iraq have been, and are being, appropriately investigated. Systemic failings have been remedied, with significant changes to some policies and training.

27. In 2013, the High Court upheld the UK Government's decision not to establish a single, independent public inquiry into all allegations of unlawful killing, torture or ill-treatment by UK Forces in Iraq. See *Mousa & Others v Secretary of State for Defence* [2013] EWHC 1412 (Admin).

#### *Legislation*

28. The Overseas Operations (Service Personnel and Veterans) Bill introduces a "statutory presumption" measure, which:

- Establishes a presumption that, once five years have elapsed from the date of an incident, it is to be exceptional for a prosecutor to decide to prosecute for offences alleged to have been committed on overseas operations;
- Requires a prosecutor to give particular weight to certain matters when deciding whether to prosecute; and
- Requires the consent of the relevant Law Officer before such prosecutions can proceed.

29. The Bill is currently being considered by Parliament.

30. The "statutory presumption against prosecution" measure is not a statute of limitations nor an amnesty.

31. Rather, the presumption is rebuttable; prosecutors will still retain the discretion to prosecute where they consider it appropriate to do so.

32. The statutory presumption is consistent with the UK's obligations under international law, including the Rome Statute and the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

#### *Redress*

33. Anyone who alleges they have been subjected to ill-treatment or torture by UK Forces can, subject to any time limits specified under the applicable law, bring a claim against the UK Government.

34. Operations in Iraq have resulted in over 900 compensation claims against the UK Government. These were brought under both tort law and the Human Rights Act 1998 for alleged unlawful detention and ill-treatment.

35. Of these, approximately 320 were settled in 2012–2013 following the European Court of Human Rights' ruling (see *Al-Jedda v UK*) that UK Forces did not have a lawful basis to detain in Iraq.

36. Following the High Court's leading judgment in December 2017 (see *Alseran & Others v MOD* [2017] EWHC 3289 (QB)), which clarified the legal position in relation to detention, approximately 200 claims were withdrawn or struck out.

37. Since then, the UK Government has been working with the claimant solicitors to resolve the remaining more than 400 claims without the need for further trials. This process is nearly complete.

## **Accountability for conflict-related violations in Northern Ireland (paragraph 41)**

### **Follow-up information relating to paragraph 41 (a) of the concluding observations**

38. Following a General Election in the United Kingdom in December 2019, and after extensive negotiations, devolved government was restored in Northern Ireland on 10 January 2020.

39. To support the restoration of the Executive a number of commitments were made by the UK Government and the Irish Government which are captured in the ‘New Decade, New Approach’ agreement. One of the commitments made by the UK Government was to introduce legislation in the UK Parliament to address Northern Ireland legacy issues. On 18 March 2020, the UK Government set out legacy proposals which have reconciliation and information recovery at the heart of a revised legacy system that delivers for victims from all communities.

40. The UK Government remains committed to making progress on legacy issues and engaging with the Irish Government and the Northern Ireland parties on the way forward, as quickly as possible. The UK Government recognised the importance of working with all parts of the community in Northern Ireland as part of this process.

### **Follow-up information relating to paragraph 41 (d) of the concluding observations**

41. As above the UK Government is committed to bringing forward proposals to help address the legacy of Northern Ireland’s past. The UK Government remains committed to ensuring that a decision on how to proceed following the UK Supreme Court judgment in the case of Patrick Finucane is made as soon as possible, taking into account wider developments, and wrote to the Finucane family on 8 April 2020 to confirm this position.

### **Follow-up information relating to paragraph 41 (e) of the concluding observations**

42. The UK Government is committed to introducing legislation in the UK Parliament to address Northern Ireland legacy issues.

43. The UK Government has recently legislated to establish a scheme to provide payments to individuals seriously injured in the Troubles through no fault of their own. This will complement the existing landscape of support and services available to victims and survivors of the Troubles, governed by the Northern Ireland Executive’s Strategy for Victims and Survivors. The Executive has also progressed work to develop a Regional Trauma Network, which will play a key role in meeting mental health needs stemming from the Troubles. As part of The New Decade, New Approach Deal the UK Government also committed to “make funding available for a range of projects aimed at supporting community and reconciliation initiatives to remove barriers, bring the people of Northern Ireland together and build a safer, more secure society in Northern Ireland”.

44. The UK Government continues to condemn unreservedly the use of torture or inhuman treatment, and any such allegations are the responsibility of the relevant police force to investigate effectively and independently.

45. The Independent Commission for the Location of Victims Remains (ICLVR) was established in 1999 by Treaty between the British and Irish Governments to obtain information which may lead to the location of the remains of “the Disappeared” (16 people killed and buried in secret by proscribed organisations prior to 10 April 1998 as a result of the Northern Ireland Troubles). To date, the remains of thirteen of the Disappeared have been recovered, ten of whom have been recovered through the ICLVR’s efforts. The overriding priority for the ICLVR is to return the remains of the victims to their families in order that they can receive a dignified burial and that the families may, in some measure at least, achieve some resolution or closure with regard to the deaths of their loved ones.

**Follow-up information relating to paragraph 41 (f) of the concluding observations**

46. The UK Government condemns unreservedly the use of torture or inhuman treatment. The UK Government does not use or condone torture for any purpose, including to obtain information.

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