



House of Commons  
Northern Ireland Affairs  
Committee

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**The administrative scheme  
for “on-the-runs”:  
Government Response to  
the Committee's Second  
Report of Session 2014–15**

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**Second Special Report of Session 2015–16**

*Ordered by the House of Commons  
to be printed 15 July 2015*

## The 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

[Mr Laurence Robertson MP](#) (*Conservative, Tewkesbury*) (Chair)  
[Mr David Anderson MP](#) (*Labour, Blaydon*)  
[Oliver Colvile MP](#) (*Conservative, Plymouth, Sutton and Devonport*)  
[Mr Nigel Evans MP](#) (*Conservative, Ribble Valley*)  
[Mr Stephen Hepburn MP](#) (*Labour, Jarrow*)  
[Lady Hermon MP](#) (*Independent, North Down*)  
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[Danny Kinahan MP](#) (*Ulster Unionist Party, South Antrim*)  
[Jack Lopresti MP](#) (*Conservative, Filton and Bradley Stoke*)  
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[Nigel Mills MP](#) (*Conservative, Amber Valley*)  
[Ian Paisley MP](#) (*Democratic Unionist Party, North Antrim*)  
[Gavin Robinson MP](#) (*Democratic Unionist Party, East Belfast*)

### 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](http://www.parliament.uk).

### Publication

Committee reports are published on the Committee's website at [www.parliament.uk/niaacom](http://www.parliament.uk/niaacom) and by The Stationary Office by Order of the House. Evidence relating to this report is published on the Committee's website at [www.parliament.uk/niaacom](http://www.parliament.uk/niaacom).

### Committee staff

The current staff of the Committee are Mike Clark (Clerk), Robert Cope (Clerk), Ami Cochrane (Legal Assistant), Nick Taylor (Senior Committee Assistant), and Jessica Bridges-Palmer (Media Officer).

### Contacts

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## Second Special Report

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The Committee published its Second Report of Session 2014-15, *The administrative scheme for “on-the-runs”*, (HC 177), on 24 March 2015. The Government response was received in the form of a letter from the Secretary of State for Northern Ireland, and a memorandum, both of which are published as appendices to this Special Report.

### Appendix 1: Letter to the Chair of the Committee from the Secretary of State for Northern Ireland

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I wrote to you on 24 March<sup>1</sup> in response to the Northern Ireland Affairs Committee’s Report into the ‘On the Runs’ Administrative Scheme.

Given the thorough and comprehensive nature of the report and the fact that it was published so close to the prorogation of Parliament, it was not possible to provide a Government response in line with normal protocols.

The attached paper now sets out the Government’s response to the Committee’s report.

**Rt Hon Theresa Villiers MP**  
**Secretary of State for Northern Ireland**  
**14 July 2015**

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<sup>1</sup> <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-Sos-to-LR-240315.pdf>

## Appendix 2: Government Response

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This paper sets out the Government’s response to the Northern Ireland Affairs Committee’s report into the administrative scheme for on-the-runs (OTRs) published on 24 March 2015.

In March 2014, the Northern Ireland Affairs Committee (NIAC) announced its intention to hold an inquiry into the on-the-runs administrative scheme, running concurrently with the review into the administrative scheme led by Lady Justice Hallett, which published its final report on 16 July 2014.

The Government welcomes the Northern Ireland Affairs Committee’s Report and is grateful for this opportunity to respond to it.

The Northern Ireland Office provided written evidence to NIAC on behalf of the Government in 19 January 2015 and the Secretary of State, The Rt Hon Theresa Villiers MP, gave oral evidence to the Committee on 3 September 2014 and 19 January 2015. Sir Jonathan Stephens, Permanent Secretary of the Northern Ireland Office, gave oral evidence on 3 September 2014, 6 January 2015 and 19 January 2015, and a number of current and former civil servants also gave evidence to the Committee.

As the Secretary of State noted in her statement to the House of 9 September 2014, the OTR administrative scheme is at an end. It was not an amnesty. The letters were not a commitment by the State that individuals would not be prosecuted, whatever the strength of the case against them. The letters were only ever a statement of the facts, as they were believed to be at the time, as to whether an individual was wanted for questioning by the police or not. They were not intended to preclude investigation or prosecution on the basis of new evidence emerging after they were sent, or, on the basis of a fresh assessment of the existing evidence.

The letters, as described in the Hallett report, issued in whatever form, do not represent any commitment that the recipient will not be investigated or prosecuted, if that is considered appropriate on the basis of the evidence now available.

The Government notes that the Committee’s report reinforces the findings of the Hallett report that the implementation of the scheme was unsatisfactory and suffered from a series of systemic failures. The scheme developed piecemeal and without appropriate direction.

The Committee’s report also acknowledges, as did the Hallett report, that errors of fact were made. The Governments fully accepts this conclusion. They should not have occurred and the Government has apologised for this on behalf of its predecessors.

Following the publication of the Hallett Report on 16 July 2014, the OTR Policy Oversight Board was established to implement the report’s 11 recommendations. The Board is chaired by the Permanent Secretary of the Northern Ireland Office and attended by representatives from the Northern Ireland Office, Police Service of Northern Ireland, Public Prosecution Service (NI), Department of Justice, Home Office, Attorney General’s Office and NIO Legal Advisers.

To date, 6 of the 11 recommendations made by Lady Justice Hallett have been fully implemented, including all of the recommendations which fall solely to the NIO to implement. These are found on page 147 of the Report of the Hallett Review at paragraphs 11.2 and 11.3:

- a) clarify with all relevant parties whether it will retain responsibility for determining the future of the scheme
- b) confirm whether any element of the scheme still exists and, if so, whether it will continue
- c) seek legal advice, in conjunction with the police and prosecuting authorities, to determine whether it should notify any individuals whose status, as communicated to them, has changed or may change in the future
- d) consider how to mitigate against further abuse of process arguments, for example by confirming to recipients the factual and contemporaneous nature of their letters of assurance
- e) The PSNI re-examine its liaison with other services in the UK on terrorist offences, and ensure there are single points of contact (where these do not exist) for the exchange of information and intelligence
- f) The UK Government consider establishing a procedure for recording on a central register – where this is appropriate – the use of the Royal Prerogative of Mercy

Work on the implementation of the remaining 5 recommendations – those at paragraph 11.2 bullet point 5 (for the NIO to coordinate in conjunction with police and prosecuting authorities), and paragraph 11.3 bullet points 1, 2, 3 (for the PSNI) and 5 (for the Home Office) – is ongoing.

The OTR Policy Oversight Board is due to meet again in July to review progress against the outstanding recommendations.

## Responses to recommendations

The Government has considered the Northern Ireland Affairs Committee’s recommendations carefully and sets out its response here. This paper responds to each of the recommendations of the Northern Ireland Affairs Committee report (HC177) in turn. For clarity, the Committee’s recommendations are set out in bold, followed by the Government response.

1. **“We urge the Government to ensure that, in future, all parties that carry out inquiries or reviews on behalf of the Government are instructed from the outset that they will be required to explain their findings to Parliament if invited to do so.” (Paragraph 11)**

Departmental Select Committees have the ability to call witnesses and papers relating to inquiries, and the Northern Ireland Affairs Committee and other Committees have exercised these powers. The Government agrees that parties carrying out inquiries or

reviews at the invitation of Government should be expected to explain their findings to Parliament and the public.

2. **“We would like to see HM Government state its policy on pursuing those who were still wanted at the end of the OTR scheme including Rita O’Hare.” (Paragraph 49)**

The Government has taken steps to do all we can to remove barriers to prosecution. We have done this in order that the police and prosecuting authorities can treat individuals covered by the scheme in the same way they would for any other individual: investigations should and must be led by the evidence.

In relation to those individuals outside of the UK’s jurisdiction, since 2004 international arrest warrants have been issued between judicial authorities in Europe under the European Arrest Warrant (EAW). In the UK, the National Crime Agency acts as the principal Central Authority for receipt of incoming and transmission of outgoing EAWs; government departments play no further role in the EAW system. The Government’s position is to support the independence of the judicial authorities in pursuing the extradition of wanted individuals in Europe. We are not the decision makers in EAW cases.

3. **“The letters themselves, and subsequent statements by the PSNI and NIO, have left it unclear quite what “new evidence” would be required for a prosecution to be brought against a recipient of one of the letters. This issue is key and should have been addressed before the text of the letters was decided so that all involved were clear regarding what could and could not be considered. This issue exposes again the lack of care that was taken in designing the scheme. This is a point which needs to be clarified, particularly given the statement by the PSNI that 95 recipients of letters are potentially linked, by intelligence, to almost 300 murders.” (Paragraph 141)**

The Secretary of State for Northern Ireland made a statement to the House of Commons on 9 September 2014, on behalf of the Government, having consulted the independent police and prosecuting authorities, on the basis of the advice she had received and considered.

Decisions about investigations and prosecutions will be taken on the basis of the intelligence and/or evidence relating to whether or not the person concerned committed offences. That means that in any of their cases, and whatever was said in the letters sent to them or in statements made in the past, decisions taken today and in future will be taken on the basis of the views formed about investigation and prosecution by those who now have responsibility for those matters. Their views might be the same as those that led to the letters being sent in the past, or they might be different. It is the views of those who take the decisions now or in future that matter. All the evidence will be taken into account, regardless of whether it was available before the letters were sent or whether it has emerged subsequently.

4. **“The Government should set its mind to ensuring all necessary steps are taken, including, if necessary, introducing legislation to ensure the letters have no legal effect.” (Paragraph 157)**

The option of legislating on these matters was considered carefully by the Secretary of State for Northern Ireland. The conclusion was that a statement to the House that the scheme is at an end and these letters should not be relied on, not least because of a risk that errors have been made in other cases, was the fairest, promptest and most effective way to reduce the risk to future prosecutions and to provide the clarity called for in the Hallett Report. The Secretary of State made a statement to the House of Commons on 9 September 2014 to this effect, and continues to consider that this statement is the most effective means of addressing the Committee’s recommendation.

5. **“The work around OTRs was commissioned specifically by the NIO for reasons other than policing. The checks being undertaken initially by the PSNI, in relation to OTRs, were not as a result of its normal policing role; they were being carried out at the request of the NIO for political reason. What has followed, specifically Operation Redfield, was a direct result of that piece of work being commissioned by the NIO. We believe this needs to be separated out from the wider work around historic investigations and we recommend that the NIO should commit the funds to ensure the review of the names of all those who received letters is undertaken swiftly.” (Paragraph 212)**

It is primarily for the Northern Ireland Executive to ensure that the PSNI is sufficiently resourced to undertake its duties, and the NIO has been clear in its assurance to the Committee that it fully supports the PSNI in this regard. The Government notes that the Executive were able to identify an additional £20m for the PSNI in the Executive’s final budget for 2015-16. Under the Stormont House Agreement, the UK Government has offered £150million to support investigations relating to the legacy of the Troubles.

6. **“We welcome the fact that the Hallett report recommended that a central register of RPMs be drawn up for Northern Ireland, and are pleased that HM Government has already accepted this recommendation, although this information will not be provided retrospectively. In the interests of transparency, and given that the names of those who received the use of the RPM are already in the public domain, however, we recommend that the Secretary of State should publish this information retrospectively.” (Paragraph 296)**
7. **“We recommend that HM Government confirm which OTRs received the RPM, as the provision of such information could not jeopardise any future prosecution of those individuals.” (Paragraph 298)**
8. **“Where the RPM has been used in Northern Ireland in the past, we believe HM Government should publish names of those people, and list what they received the RPM for, and we recommend that the names of any future recipients of the RPM in Northern Ireland should be required to be published in the Belfast Gazette.” (Paragraph 300)**

The Government has made clear its position on publishing the names of individuals who are in receipt of the RPM. The Government does not consider it appropriate to publish the names given the legal and privacy concerns that are present. There is a risk that by publishing names relating to individuals that received the RPM or letter under the OTR scheme, that this would jeopardise future prosecutions, either make them more difficult or increase the risk of an abuse of process argument being successfully run.

As the Committee welcomes, the Government has accepted the recommendation of the Hallett Report to establish a register for current and future use of the RPM in Northern Ireland. This involves sharing of information between the NIO and the NI Department of Justice.

The practice of publishing the use of the RPM in the London Gazette for cases in England and Wales only applies where the RPM has been used to grant a free pardon – not where the RPM has been used to shorten or commit sentences. In any case in future where use of the RPM is considered in Northern Ireland to grant a free pardon, the Government will take full account of the Committee’s recommendation and the expectation will be that such a use will be published in the Belfast Gazette.