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Dear Colleagues,

Our Armed Forces do an incredible job to protect us and our nation. They endure great hardships and separation from their loved ones, and they place themselves in harm's way and bear the physical and mental scars of traumatic experiences. They are prepared to risk their lives for us. We owe them a huge debt, and we also owe them justice and fairness.

The Government is clear that the Armed Forces are not above the law. It is right that whenever the Armed Forces embark on operations our people and their chain of command are bound to abide by the criminal law of England and Wales, as well as international humanitarian law as set out in the Geneva Conventions. Our service men and women are required to conform to the highest standards of personal behaviour and conduct. And when they fall short they must be held to account. Justice must be served.

But where an allegation has been made and has been investigated – and no charges have been brought - the law must allow a line to be drawn. Veterans should not have to be concerned about the prospect of a new cycle of repeat investigations many years after the operations in which they served have concluded.

That is why the Government believes change is needed to afford Armed Forces personnel and veterans greater protection from the threat of prosecution for alleged historical offences committed in the course of duty overseas.

Similar issues arise in relation to civil litigation. Military operations in Iraq resulted in litigation against the Ministry of Defence on an industrial scale: nearly 1,000 claims seeking compensation for personal injury or death (most of which also sought compensation for human rights violations), and approximately 1,400 judicial review claims seeking an European Convention on Human Rights (ECHR)-compliant investigation and compensation. Although the law does provide for a time limit in such cases, the Courts are currently given broad discretion as to whether to enforce that limit. The effect is that claims have routinely been brought late, with huge numbers of compensation claims permitted to proceed long after the relevant time limit.

The later a claim is brought, especially in respect of allegations emanating from a war zone, the harder it is to assess in a fair and proportionate manner. Records may no longer be sufficiently detailed to be able to prove or disprove specific

allegations, and the memories of those involved in incidents fade over time. In such circumstances, the Government may have to choose between settling claims – the merits of which have not been established – or putting Armed Forces personnel and veterans through the ordeal of giving evidence on the Ministry of Defence's behalf. This is unfair to our personnel and to the taxpayer, who must pay the associated legal costs.

All of this goes to the heart of what is known as 'lawfare' – the judicialisation of war. And the risks and impacts of lawfare are clear: in terms of the financial costs; the stress and strain placed on veterans; the potential impact on the morale of serving personnel and our ability to recruit future Armed Forces personnel; and the risk that decisions taken on operations may be corrupted in order to avoid the possibility of legal proceedings many years in the future – the "chilling effect" feared by military commanders.

This is why I announced in my Written Ministerial Statement on 21 May (HCWS 1575) my plans to take forward work to address this important and concerning issue.

I am pleased to be able to announce today the launch of a public consultation on legal protections measures for the Armed Forces and veterans in relation to events occurring outside the UK.

The proposed measures are focused on alleged offences committed during military operations overseas, including for instance combat operations and peacekeeping operations. The proposals do not extend to military personnel in the United Kingdom, for example when on operations in support of the civil authorities, where their role is to assist organisations such as the police to perform their duties.

The consultation document contains proposals which we believe can be enacted in a manner which is consistent with our obligations under domestic and international law, while providing genuine benefits to our personnel.

First, a proposal to legislate for a presumption against prosecution of current or former Armed Forces personnel for alleged offences committed in the course of duty more than ten years ago. This measure would in effect raise the threshold to be applied by prosecutors when considering whether a prosecution is genuinely in the public interest in such cases. Two different options are set out in the consultation document for how this measure could be enacted.

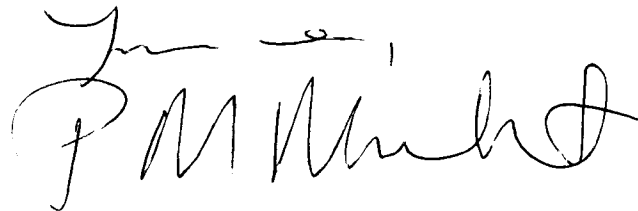
Second, a proposal to ensure that going forward the law reflects the unique pressures faced by Armed Forces personnel, through the creation of a new partial defence to murder. This would be available to Armed Forces personnel who caused a death in the course of duty, but used more force than necessary for self-defence. This could reduce a conviction for murder to manslaughter.

As part of the consultation, we are also seeking views on a proposed non-criminal measure to restrict the Court's discretion to extend the normal time limit for bringing civil claims for personal injury and/or death in relation to historical events.

We hope that the proposals set out in the consultation will help ensure that our Armed Forces receive the justice and fairness that they are owed. And, through the consultation, we will test and refine what is proposed with the aim of bringing forward legislation as soon as possible.

I know that there is great interest in the issue of historic allegations relating to Operation Banner. My WMS of 21 May set our obligations and course of action to ensure veterans of that operation are treated fairly.

I will keep you informed as we move forward with these important proposals.

A handwritten signature in black ink, appearing to read 'Penny Mordaunt', written in a cursive style.

THE RT HON PENNY MORDAUNT MP