Introduction

1. The UK Government would like to thank the Committee for organising the session and welcomes the chance to seek clarifications and ask questions on the review.

2. We will be taking into consideration the Compliance Committee’s review and the responses from communicants and observers as we compile our third annual progress report.

New developments

3. Before addressing the Committee’s review, we would like to take the opportunity to provide an update in relation to the UK’s implementation of the Convention.

Scotland

4. In Scotland a National Taskforce for Human Rights was established in early 2019, in response to the recommendations made in December 2018 by the First Minister’s Advisory Group on Human Rights, and to prioritise actions that address human rights. Specifically the Taskforce will move forward with consideration of the recommendation that the Aarhus Convention will become justiciable in Scots law. Although for the next Parliament, it is possible that the work of the taskforce will inform future legislation in this area.

Questions and comments

5. We would now like to move on to the UK Government’s comments on the Committee’s review.

6. First we would draw the attention of the Committee and those in attendance at this session to the fact that the 2nd progress review was published significantly later this year than last year. This has allowed us only four working days to digest a detailed review across multiple government departments and administrations, and to consider areas in which we would benefit from clarification at this session. The result is that we are not in a position today to make either a comprehensive or detailed statement on the matters in the review.

7. That said we are grateful for this opportunity to engage and have a number of comments to make.
Costs issues

8. We would like to begin with costs issues, and we are pleased to note that the Committee has concluded there is no basis upon which the UK can be regarded as not having met the requirements of decision VI/8K as regards the eligibility for costs protection.

9. Similarly, we are pleased to have satisfied the Committee that provisions with regard to legal costs prior to permission being granted (indeed all pre-action costs) meet the requirements of the decision.

10. There being no plans to bring into force ss.85 and 86 of the Criminal Justice and Courts Act 2015, the UK notes the Committee finds we meet the requirements of the decision as regards costs orders against funders of litigation.

11. As regards promptitude, the UK notes that the Committee will not be examining this issue any further at this time.

12. We note the Committee’s other comments on paragraphs 2(a), (b) and (d) of decision VI/8k and will consider these in detail ahead of the third progress report.

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13. It is disappointing to hear that the Committee consider that the UK has not yet demonstrated that it has fulfilled the requirements of paragraphs 8(a) and (b) of decision VI/8k in practice. We will address the points raised by the Committee in our final progress report with the aim of demonstrating such.

Public participation

14. We are in receipt of the Committee’s comments on paragraph 2(e) of decision VI/8k which we are considering. In the meantime we are glad to provide the Committee with the UK’s current Consultation Principles as requested.¹

Northern Ireland

Cross-undertakings for damages

15. We still have no evidence of any applications for injunctions so cannot comment further at this stage.

Time limits for judicial review

¹ Annex A – Consultation Principles 2018
16. We are pleased to note the Committee’s remarks with respect to time limits for judicial review in Northern Ireland, and that we have fulfilled the recommendation in paragraph 2(c) of decision VI/8k.