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13 August 2025

Our Reference: MC/25/523

Dear Sir Iain,

Thank you for your letter dated 18 December 2024 regarding the recommendations made in the Operation Kenova interim report published in March 2024. I note your other letter regarding your request to name the alleged agent known as STEAK KNIFE to which I will be responding separately.

I commend the important work that you, and your predecessor, Jon Boutcher, have done in establishing Operation Kenova. In carrying out this investigation, Operation Kenova has gained the full trust of the families it has been working to find answers for. The way you and your dedicated team have built relationships with these families is a yardstick for other legacy investigations in the future.

The Terms of Reference for Operation Kenova were to establish whether there is evidence of the commission of criminal offences by the agent known as STEAK KNIFE, or their handlers (including the British Army, the Security Services or other government agencies). I note your conclusions on this matter and the decisions of the DPP in relation to files that you passed to him.

While I note that some of the recommendations in the interim report fall outside this original remit, I am always very open to hearing the views of stakeholders on legacy

matters and I therefore welcome Operation Kenova sharing its suggestions which the Government has done its best to respond to. I would also note that many of your recommendations relate to matters which are for the NI Devolved Administration and others to consider.

I want to update you on matters in relation to the NI Troubles (Legacy and Reconciliation) Act 2023, as some of your recommendations touch on issues that the Act deals with. I intend to bring forward primary legislation that will ensure that the Independent Commission for Reconciliation and Information Recovery (ICRIR) is able to address the legacy of the Troubles in Northern Ireland in a way that is human rights compliant and commands the confidence of society. The legislation will create a fairer disclosure regime and ensure that, in specific circumstances, the ICRIR can hold public hearings, take sworn evidence from individuals, and allow families to have effective representation. Section 5 of the Legacy Act puts public authorities under an obligation to disclose any material that the ICRIR may require for the purposes of its investigations, while section 4 places a duty on the ICRIR not to do anything which would risk or prejudice the UK's national security interests or put lives at risk.

The Legacy Act set up the ICRIR as an independent body to investigate Troubles-era deaths and serious injuries. Although we are clear that we will repeal and replace the Legacy Act, the Government has full confidence in the ICRIR's ability to deliver for victims and survivors of the Troubles under the leadership of Sir Declan Morgan. While the Courts have recognised that it might be possible to improve the arrangements to strengthen the ICRIR's independence or the appearance of it, it found that these arrangements do not of themselves offend the principle of independence. This is due to the fact that the ICRIR is ultimately made up and staffed by independent investigators and decision makers including the commissioners. In any case, the Government will be bringing forward further legislative changes to strengthen its independence and governance.

I am appealing parts of the Northern Ireland Court of Appeal judgment in Dillon and Others, due to be heard by the Supreme Court in October 2025. The primacy of the Executive in decisions relating to the security of the State is a principle long recognised by the UK Courts, and is a crucial element of our ability to keep people safe. For this reason, I am appealing the Court's findings relating to the Secretary of State's power to preclude the disclosure of sensitive information in circumstances where such disclosure would prejudice the national security interests of the United Kingdom.

I note your recommendations around a review of NCND and the security classification of past NI legacy reports. You will understand that the first duty of the Government is to protect national security and must, therefore, ensure sensitive information that is injurious to the public interest, including information which could damage national security or presents a real risk of harm to life, is not released. NCND is an important protection in particular where disclosure of information might otherwise cause damage to national security through the compromise of recruitment

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and retention of CHIS, but it also covers a broad range of other sensitive national security activities. You will be aware that the Government has appealed the Thompson judgement to the Supreme Court and judgment is expected imminently. We would expect the judgment to provide some clarity on the use of NCND and the role of the courts. Specifically on the issue of past reports, these are owned by many different bodies, including the UK Government and the PSNI. The Government already follows a procedure for the declassification of historic material via the Public Records Act.

On the matters raised in the interim report, the Government will not consider a state apology while litigation remains ongoing and ahead of a final report that is yet to be published. You may want to refer to my other letter regarding your request to name STEAK KNIFE for further context on the legal implications of such actions.

Regarding your suggestion that the longest day, 21st June, should be designated as a day when we remember those lost, injured or harmed as a result of the Troubles, the Government is open to this suggestion. Designating a day to remember all of the victims of the Troubles is something that would carry significant weight. However, our initial view is that this is not something that should be decided solely by the UK Government. It may be more appropriate for this to be done in collaboration with the Northern Ireland Executive who can consider the views of all communities in Northern Ireland to ensure that the day chosen has cross-community support.

Finally, whilst not a recommendation from the interim report, I note that you have recently published on your website the unclassified summary produced by former Assistant Commissioner Helen Ball QPM concerning material of relevance to KENOVA identified by MI5 in 2024. As you say, it was deeply regrettable that the material was discovered after decisions were made by the PPS and the publication of the interim report. I am reassured by Helen Ball's report that she concluded that none of the material was deliberately withheld from your investigation at an individual or organisational level.

Once again I would like to take this opportunity to thank you and the whole team at Operation Kenova for conducting this extremely important and complex work. A copy of this letter will be placed in the Library of both Houses.

Yours sincerely,

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

**THE RT HON HILARY BENN MP
SECRETARY OF STATE FOR NORTHERN IRELAND**