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Mr O'Floinn

1. Please see the request from D/JELR (received via Ms Betson) for observations on a Draft Memorandum to Government on the establishment of a Commission on Victims of Violence arising from the Northern Ireland conflict.

2. Ms Maguire draws attention to the last two sentences of paragraph 3 of the Draft Memorandum to Government, which would appear to give the Commissioner (Mr John Wilson has been designated for this function) a role in the management of the release of prisoners under the Good Friday Agreement, and by implication to delay prisoner releases until after he has produced an interim report.

3. I consider, like Ms Maguire, that to separate the management of prisoner releases from the remainder of the package and to consider it solely in relation to victims would raise difficulties. The Government has emphasised on a number of occasions, in connection with proposed British legislation, that the Agreement has to be observed exactly, and that it is unacceptable to seek to introduce additional conditions.

4. In the case of prisoner release, the Agreement provides for a review process which "would provide for the advance of the release dates of qualifying prisoners while allowing account to be taken of the seriousness of the offences for which the person was convicted and the need to protect the community." These are the only conditions set out. While these might be construed to allow consideration of victim-related issues, I would be opposed to establishing any explicit link between these issues and releases. To do so would undermine the position we have adopted in relation to prisoner legislation in Northern Ireland.

5. For this reason, I would suggest that the two sentences in question be deleted from paragraph 3 of the Draft Memorandum.

John D. Biggar
4 June 1998

Secretary Gallagher,

I agree with Mr. Biggar's view that it would be better to delete the last two sentences of para 3 in the Draft Memo. The Draft Memo will not become public, of course and there is no linkage between the Commission and prisoner release but the sentences in question implicitly go beyond the G.F. Agreement. In any case, they are not necessary for the purpose intended by the Draft Memo. The interim report can be produced anyway. If you agree we will convey it.

for Sec. L DHECR

Mr. Biggar

Requests for observations on Draft Memorandum for the Government on the establishment of a Commission on Victims of Violence arising from the Northern Ireland Conflict

1. Please see attached a request from the Department of Justice, Equality and Law Reform for observations on a Draft Memorandum for the Government on the establishment of a Commission on Victims of Violence arising from the Northern Ireland Conflict. Ms Betson is coordinating this Division's response and has asked for this Section's observations, specifically in relation to the reference to prisoners.

2. The background to this draft memo is that on 20 May there was an informal Government decision to arrange for a review on the lines of the Bloomfield Commission in Northern Ireland to address the issues raised in the case of victims of terrorist violence. The former Tánaiste John Wilson has agreed to act as Chairperson of the Commission. The draft memo attached seeks confirmation of the Government's informal decision and requests the Government's approval for the Commission's draft terms of reference.

3. It is not clear whether the Prisons Division of the Department of Justice, Equality and Law Reform have also been asked for their observations.

4. Paragraph 3 of the draft memorandum which relates primarily to the Date of Report also makes reference to the release of prisoners as provided for under the Good Friday Agreement. The relevant text is:
"The Minister and the Commissioner elect are both conscious that the review will be greatly relevant to the management of the release of prisoners under the Multi-Party Agreement. It is envisaged, therefore, that the Commission may produce an interim report, at an early date, addressing the issues of greatest relevance to this."

5. The insertion of a direct link between the Commission and prisoner releases is clearly a highly sensitive matter. The current draft suggests that the management of the release of prisoners would be informed by the Victims Commision and that, for this reason, it is "envisaged" that the Commission "may produce an interim report, at an early date" addressing this issue. To separate the management of prisoner releases from the comprehensive and interlocking package which makes up the Agreement and to consider it solely in relation to victims could raise difficulties.

6. I would suggest that our observations form either (i) a suggestion that the reference to prisoner releases be excluded altogether or (ii) re-draft the reference and remove the reference to the possibility of an interim report being issued. A re-draft might be along the lines of the Taoiseach's statement on the publication of the Bloomfield report (see left-hand side of file) to the effect that it is recognised that this is for some a "particularly painful" period and it "is apparent that certain aspects of the Good Friday Agreement, in particular those relating to the release of prisoners, cause some victims very substantial difficulties." There might follow a statement of the intent of the Minister and Commissioner to proceed with the Commission, as with the implementation of the Good Friday Agreement, as sensitively and comprehensively as possible in the period ahead.

Sile Maguire
3 June 1998

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DRAFT

Oifig an Aire Dli agus Cirt, Comhionannais agus Athchóirithe Dli

Reference No Date of Submission: 4 June 1998

Memorandum for the Government

Commission on Victims of Violence arising from the Northern Ireland Conflict

Decision Sought.

1. The Minister for Justice, Equality and Law Reform requests the Government to formally confirm its informal decision of 20 May 1998 to establish a Commission, to be headed by former Tánaiste John P. Wilson, to conduct a review along the lines of the Bloomfield Commission to address issues relating to victims of violence arising from the Northern Ireland conflict. The Minister also requests the Government's approval for the Commission's draft terms of reference in appendix A to this memorandum

Scope of Review.

2. Since the Government's informal decision mentions the Dublin and Monaghan bombings, the Minister feels that it could be invidious not to include the victims of earlier incidents in the present phase of conflict i.e. since 1968. At the same time, the Minister and the Commissioner elect are agreed that the terms of reference should clearly show that the review is confined to the present phase of conflict. As the Bloomfield Report points out "The definition of the length of what of what has euphemistically been described as 'the troubles' is necessarily an arbitrary one". In using the term "over the past thirty years" the Minister and the Commissioner elect are agreed that this should be interpreted as a broad indication of scope rather than a strict time limit. The review is also limited in extent to a review of the arrangements and services in place "in this jurisdiction".

Date of Report

3. It is difficult to estimate, in advance of the Commission beginning its enquiries, how much time it will need to complete its work. The Minister feels that setting a time limit could compromise the thoroughness of the Commission's consultations. He believes that it would only add to victims sense of grievance if the Commission is percieved as not having the time to listen. This could damage the exercise in the eyes of victims and give justification to charges of "window dressing". Nonetheless, it is envisaged that the Commission should be in a position to issue its final report towards the end of this year. This is roughly the time taken by the Bloomfield Commission. The Minister and the Commissioner elect are both conscious that the review will be greatly relevant to the management of the release of prisoners under the Multi-Party Agreement. It is envisaged, therefore, that the Commission may produce an interim report, at an early date, addressing the issues of greatest relevance to this

Membership

4. The Minister sees no need to appoint anyone other than Mr. Wilson. This is in keeping with the the arrangements for the Bloomfield Commission.

Financial Implications

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5. There are no immediate long term implications. While it is not possible at this stage to give a precise estimate of the cost of the Commission, this is not expected to exceed £100,000. These costs will be charged to the appropriate subheads of the Vote of the Office of the Minister for Justice, Equality and Law Reform.

Staffing Implications

6 It is proposed to appoint a support staff of one Assistant Principal, one Administrative Officer and one Clerical Officer. Assuming that the commission will take roughly seven months to complete its work, the staff costs will amount to £50,000 (to be confirmed with finance Branch)

The views of the Minister for Finance

7. (To be sought)

The views of the Minister for Foreign Affairs

8. (to be sought????)

The Implications for Women

9 It is recognised that it is predominantly women who would have suffered the loss of a breadwinner. Other than this, the Minister sees no particular implications for women.

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Terms of Reference
(2/6/'98)

To conduct a review of services and arrangements in place, in this jurisdiction, to meet the needs of those who have suffered as a result of violent action associated with the conflict in *Northern Ireland over the past thirty years* and to identify what measures need to be taken to address the concerns of those in question, to recognise the suffering of victims and to acknowledge *and sustain* the support given to victims by their families in helping them to cope with the immediate aftermath and continuing consequences of violence. This would include consideration of the following:

- the concerns of families of members of An Garda Síochána and Defence Forces who died or sustained serious injuries as a consequence of violent acts ensuing from the conflict;

- the services and support available to victims and the families of victims of major outrages such as the Dublin and Monaghan bombings.

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