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BRITISH-IRISH
INTERGOVERNMENTAL SECRETARIAT
BELFAST

Secure Fax No: 90

DATE : 23 December 1999

NO. OF PAGES (including this one): 10

COPY TO
[redacted]
Mr O'Leary
MR. CUTTER
MR. POWER
MR. CALLAGHAN
MR. O'HARA

TO : Martin Power
DoJELR

FROM: Val O'Donnell

Copied directly to Gary Ansbro/Fergal Mythen ,
Anglo Irish Division

SUBJECT: Meeting with NIO on Victims Reports

I enclose a report on the above meeting . Regrets for the delay (caused by accidental erasure on tape of original dictation).

I would appreciate if you could indicate at an early stage when the DoJELR will be in a position to meet again with the NIO about this matter.

Also your attention is drawn to their request for prior consultation on any developments in relation to recommendations having security implications for the NIO (See paragraph 14 in the report) .You will recall that we discussed this aspect subsequent to the meeting.

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Note on Meeting in the Secretariat on 17 November 1999 in relation to progress in the North and the South towards implementing recommendations in the Reports in the two jurisdictions relating to victims of violence connected with the troubles in Northern Ireland

1. Background

The above meeting was sought by the NIO with the, involving the DOJELR to provide an opportunity for an initial exchange of information about progress relating to the implementation of the recommendations in the Victims Commission's Reports in the North and Sough. Attending on the British side were: Billy Stephenson and Kim Burns from the NIO Victims Liaison Unit which works directly to MOS Adam Ingram, with John Fisher from the British side of the Secretariat. On the Irish side: Martin Power and Brendan Callaghan DOJELR accompanied by the undersigned from the Secretariat.

2. Overview

At the outset the DOJELR representatives gave an overview of the progress with the report of The Victims Commission (the "Wilson" Commission). There had been a three month public consultation period which had just concluded and it was intended to produce an early report for the Government, including, if possible, an implementation plan; this was likely to take place in early December. Generally the recommendations fell into a few different categories. Some recommendations could be implemented quickly by administrative action. The Department has asked all relevant Agencies and Departments to identify the recommendations that can be implemented straight away and to indicate how soon this could happen. There were other recommendations which involved more than one Department or Agency. It was necessary to identify what precise Agencies were involved before it would be possible to draw up a possible implementation plan. Finally, some recommendations fell outside the ambit of Government altogether.

The Government is anxious for the Department to submit proposals very soon on what the Government itself needs to do and what decisions it needs to take. Some of the recommendations made would involve the amendment of the present Criminal Injuries Compensation Scheme. That was clearly a matter for which the Government had the main responsibility, and for which Dáil approval would be needed. The Minister was

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very anxious to implement any recommendations involving his own Department that can proceed straightaway.

A number of recommendations related to sensitive security issues. These included the recommendation for inquiries in relation to the Dublin/Monaghan bombings in 1974, the bombings in Dundalk in the same year, and the Seamus Ludlow case. There had already been decisions by the Government relating to these but the Department expected that the Minister would wish to meet interested groups relating to the Ludlow case, in the light of subsequent developments. It was possible that the Government's decision to hold a private inquiry could be reviewed in the light of the recent decision by the Northern Ireland DPP not to proceed with any prosecutions there in connection with the murder.

3. Criminal Injuries Compensation Scheme

The DOJELR indicated that an internal review of the scheme had been underway independently of the Wilson Commission's work. It included considering the issue of the re-inclusion of compensation for pain and suffering into the scheme. This review had not been geared to deal with the recommendation made on the same matter in the Wilson Victims Report, but clearly this now needed to be taken into account and could have implications for implementing the relevant recommendation in that report.

It had also been found that wide consultation was necessary in relation to recommendations in the report relating, for example, to introducing a Trauma Team and other recommendations involving the Health Boards and other groups. Also, a rigorous analysis of the financial implications of implementing the Wilson Report was necessary.

4. Recommendation on Cross Border Implications

The NIO were particularly interested in how recommendations in the Wilson Report which had cross border implications which could involve co-operation or action with the authorities in Northern Ireland, would be handled; for example, the recommendation relating to the transfer of pension rights.

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The DOJELR indicated that they were very conscious of the need to talk to counterpart agencies in Northern Ireland who could be affected by some of the recommendations made in the Wilson Report. However, it was necessary to have an initial meeting with all the main players including the different Government Departments involved in the South, before it would be possible to identify all the areas where some degree of cross border co-operation or action. Then it was necessary to identify the particular Agencies that needed to talk to one another. They indicated that there had been some contact already between counterpart Departments in Ireland and in the UK on a State-to-State relating to the issue of security benefits transfer.

Finally, the NIO stressed the need for the fullest possible consultation with the relevant counterpart agencies in Northern Ireland and offered to set up a meeting together with the DOJELR to deal with the substance of the recommendations that have cross border implications, involving all the Agencies affected in Northern Ireland and the relevant agencies in the South. The DOJELR representatives said they were quite willing to engage in that form of consultation but that the matter must await further examination to identify the relevant Agencies involved and this could only happen after there had been the necessary internal consultations and meetings which were now planned.

5. Financial resources and compensation for loss

The NIO gave some outline of the financial resources that have been allocated for the implementation of their Victims Report (Bloomfield Commission). It had been announced initially that an amount of £5 million was being allotted for this purpose, and a further amount of about £1.25 million had also been made available from other sources, including from private sources.

As regards allocating this money, it had been decided that £3 million would be allocated to support victims groups. This was being administered by the Northern Ireland Voluntary Trust (NIVT) but an amount of £600,000 from this money had been ring-fenced for WAVE. Generally speaking, people/groups will have to apply for an allocation from these monies and victims groups would have to demonstrate that they had working programmes in place, involving victims. This would apply to an amount of

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about £2.5 million of these monies. No time limit had been imposed yet on the drawing down of these monies by qualified groups. This aspect might depend on how the Peace Process itself develops.

The NIO said that a further £2 million had been allotted to the Memorial Fund and that more funding has been sought for this purpose. Professor George Bain was chairing the relevant group dealing with this matter. Among the issues that they are addressing is how to fund educational bursaries, provide allocations to meet emergency economic situations, including, even, school uniforms and house improvement projects. The NIO had found that they were extensive educational needs arising for a number of families who had "gone off the rails" as a result of becoming victims of troubles-related violence. It was clear that the Fund administrators regarded addressing such needs as a priority.

- **Criterion Applied**

The NIO said that "need" is the primary criterion used in deciding to make a grant of money from the Memorial Fund. There is no question of "distinguishing between one side or the other" and the issue of how the injuries had occurred was not a primary one either.

6 Compensation for Economic Loss

The DOJELR enquired about the situation in the North on this matter. The NIO indicated that the issue of whether compensation should be payable from the monies available to compensate for pure economic loss was a matter that was being taken into account in the review of their own compensation arrangements. Notwithstanding any changes that might be made, it was clear that they won't have enough money at their disposal to do everything they would like to do. They had noted that no European schemes for compensation which they had examined make any provision for retrospective payments in respect of economic loss.

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7. Position of Terrorist Victims

The NIO raised the question of the interpretation of the Wilson Recommendation that £10,000 be paid in the case of victims who had died as a result of the Troubles. They asked whether this was to apply to terrorist victims also.

The DOJELR explained that the Wilson Commission's Recommendation had been made in very general terms . It was a matter of policy as to what limits should be placed in applying the recommendation. Mr Wilson had replied to a question at a press conference when the report was launched, to the effect that he wasn't excluding the possibility that such people would qualify, but it was a matter for the Department and for the Minister to make policy decisions in relation to who should and who should not be included. They mentioned that if the criteria that apply in the present Criminal Injuries Compensation Scheme were used in relation to this matter that would not rule out terrorist victims qualifying for compensation.

8. Public Reaction to consultation

The DOJELR indicated that they had not received a very extensive response to the public advertisements for views on the Report. Such responses that had been received, and the media attention on the Report, was focused almost exclusively on the situation relating to the recommendation that an inquiry be carried out by a Judge into the Dublin/Monaghan bombings of 1974.

9. Geographical Limitation

The NIO enquired whether people living in the North would qualify for grants under our arrangements, when implemented, and whether any representation had been received by us from people in the North.

The DOJELR indicated that the Wilson Report Recommendations only cover people/citizens who are living in the South. Representations had been received, channeled through an officer in the NIO, from a woman who had no connection at all with our jurisdiction. The Department wondered whether the NIO misunderstood the

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true position in this regard. Responding, the NIO indicated that to their understanding the woman involved was merely reacting to the press coverage of the Wilson Report and may have had the impression that it had recommended that any person who had been a victim of the Northern Ireland Troubles, irrespective of where the incident of violence had occurred or where the person who was a victim was living, should qualify for any benefits that were introduced.

10. Victims Memorial

The DOJELR wondered whether there had been any decision in the North on providing a physical memorial, to be funded from the monies available arising from the Bloomfield recommendation for a Memorial Fund..

The NIO indicated there was no decision on this yet. The idea of having a Memorial Garden as recommended by Bloomfield was a nice idea, but they indicated that this was not an urgent priority at the moment.

11. Victims Ombudsman

The DOJELR was interested in the recommendation in the Bloomfield Report to introduce a Victims Ombudsman. They enquired about the position.

The NIO felt that Bloomfield may have used the wrong language or words to describe what he had in mind. Perhaps he had more accurately meant a "champion" to stand up for victims of the violence. They understood there was a precedent for this in Spain, in the Basque Region, but commented that many more of the victims there are members of the security forces, whereas the range of victims in Northern Ireland runs much wider. They were also conscious of the need to avoid creating "permanent victims", despite the real need that undoubtedly exists among many of the victims survivors of the Troubles. They said that their existing priority for funding were as follows:

(1) Establish a bursary scheme from the Memorial Fund monies.

(2) Establish a Trauma Treatment Centre.

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(3) Provide funding for individual victims groups.

12. The "Disappeared"

The NIO indicated that the families of the disappeared had been given a grant of £4,000 each in connection with burial expenses as they would not qualify for ex gratia payments under the present Northern Ireland compensation scheme. The £4,000 was confined to the burial expenses of bodies that were discovered and identified through the operation of legislation enacted in both jurisdictions to deal with the matter.

Recommendations with possible read-across implications for the other jurisdiction

The NIO seemed to be slightly concerned about any approach that we might adopt that was predicated on parity of arrangements, including financial payments, North and South. They would not be worried, apparently, if we were to adopt our own criterion/standards in deciding who should qualify for grants and how much they should get. They could even live with a decision (if we were to make one) that terrorist victims would come within the compensation criteria. However, any approach by us that involved treating all victims of violence, whether resulting from terrorist incidents or otherwise, on the same basis could create problems for them. The DOJELR noted the NIO concerns.

13. Time-scale for Implementation Plans

The NIO indicated that there was no final plan in existence for the full implementation of the Bloomfield Report recommendations. They said they were still at the stage of seeing community and victims groups and that, even today, new groups are being formed and are coming forward seeking funding. They had invested a massive amount of time in meeting with such groups and this had effectively "derailed" them from the task of drawing up a comprehensive implementation plan and setting a time-scale. They were also involved in drawing up a code and standards relating to Counselling of victims, which they also regarded as important.

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A further important issue for them was the current consultation paper that the Government had issued relating to changes in the compensation scheme. The consultation period finishes at the end of 1999.

As far as the position in the South is concerned, the DOJELR said that the Taoiseach had indicated that he wanted to have an implementation plan by the end of the year but, on present indications, and given the range of agencies that appeared to be involved and the different types of recommendations that had been made (including ones that would require legislative changes) it could be early in the new year before an implementation plan was proposed. There had been no indication at this stage whether such a plan would be published, but in view of the Taoiseach's very close interest in this matter, it was likely that something would be published.

14. Sensitive security recommendations

The NIO asked for an opportunity to be consulted in advance about the implementation of any recommendations involving sensitive security matters that impacted on the North. They instanced, in particular, the recommendation relating to the Aidan McEnespie case and the Garda Report that had been prepared in relation to the case (The Crowley Report). Also, any recommendations that related to the question of the Stalker/Sampson Report files in the North was particularly sensitive they mentioned. The NIO indicated that there was a large public interest element involved in the security related recommendations and emphasised the need for consultation on the issue of implementation.

The DOJELR indicated that they had registered the NIO concerns. The issue of an inquiry into the Dublin Monaghan bombings was a long standing one, and the more recent emergence of the Ludlow case had obvious cross border implications. They mentioned that the press conference on the Wilson Report had been completely dominated by these cases. This was perhaps understandable given the fact that we had a smaller number of such cases in the South.

Finally, the DOJELR had a query as to whether the Bloomfield recommendation that there could be a review of previous awards offf compensation (for example, to deal with

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the emerging problem of post-traumatic stress and cases where peoples condition had deteriorated since the original award was made) would be implemented.

The NIO were not certain about this and thought that the Government review of the compensation scheme may not cover the point. They promised to revert with further information at a later stage.

15. Conclusion

Both sides were happy to have made this initial contact and exchange of views and information. They anticipated having further meetings and the DOJELR said they would wish to wait until after their meetings with all Departments and Agencies involved, (which were planned for the coming weeks) before making further contact.

The NIO were content with this approach and gave a last word of advice that it is necessary to disengage at some point from the process of consultation with the various victims bodies so as to avoid the serious problem of creating a "victims industry". They promised to give more detailed information on the various financial allocations being made at a further meeting and to revert with any other information that the Department of Justice might wish to get.

Val O'Donnell

Val O'Donnell
December 1999

Post Script

From subsequent contacts with the DOJELR it became clear that it would not be possible to arrange a further meeting until early in the new year and the Department agreed to make contact with the Secretariat soon as they wer in a position to hold a further meeting with the NIO.

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