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To Senior Crown Counsel

1. The Opinion given jointly by yourself and Mr Laws addressed the particular issue of financial assistance to a community group based at Conway Mill, Falls Road, Belfast; the group was believed to have connections with the Provisional IRA. The view is expressed in the Opinion that if a government department believed that a group had connections with, and directly or indirectly proposed to assist a paramilitary organisation, it could refuse financial assistance on the ground of public policy.
2. Pursuant to that Opinion government policy concerning the assistance of community groups with paramilitary connections was expressed in a statement by the then Secretary of State for Northern Ireland in answer to a question in the House of Commons. A copy of that statement is enclosed.
3. The policy expressed in that statement has been applied to withhold or withdraw assistance from a number of community groups. The policy has also, without the difference having been noted at the time, been applied to organisations which cannot be described as community groups. Assistance has been withheld from some commercial undertakings, and it would appear that denial of assistance is also under contemplation in cases in which the objection is simply to the individual or individuals prominent in the organisation or undertaking seeking assistance. In other words, the basis for the decision may be the paramilitary record of an individual, rather than that the record is such as to give rise to the belief that assistance would further the aims or enhance the standing of paramilitary organisations.

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4. Counsel is referred to the enclosed copy correspondence concerning the refusal to assist a Gaelic Athletic club and a nursing home project in illustration of the manner in which the policy outlined in the Parliamentary Statement has been applied to organisations other than community groups.
5. The question of applying the policy to an application for Urban Development Grant for premises used by Sinn Fein as an advice centre is also under consideration on the ground that the connection between Sinn Fein and the Provisional IRA is well known and that its purpose is to promote the aims of the IRA.
6. The advice of Counsel is sought on the following questions:-
 - (i) Can the policy as set out in the Parliamentary Statement properly be applied to organisations other than community groups or to individuals.
 - (ii) If so, would the comments of Counsel in the Joint Opinion as to the defence to any application for judicial review similarly apply.
 - (iii) Is it necessary, in terms of the defence outlined in the Joint Opinion, that there is a belief that assistance if given would further the aims and enhance the standing of a paramilitary organisation, or may assistance properly be withheld on the ground that a person or persons prominent in the management of a firm or organisation applying for assistance has or have paramilitary connections without such connections necessarily giving rise to that belief.

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- (iv) Would the Court be more likely to seek proof of the assertion that assistance would promote or assist a paramilitary organisation in the case of denial of assistance to particular individuals.

- (v) Would there be a greater risk in such circumstances that the withdrawal or refusal of assistance would be held by the court amount to discrimination in terms of section 19 of the Northern Ireland Constitution Act 1973.

- (vi) Would it be a proper exercise of a discretion and not unlawful under section 19 of the Constitution Act, to refuse assistance in respect of premises used as a Sinn Fein advice centre on the ground that it was public knowledge that Sinn Fein promoted the aims of the Provisional IRA? Counsel is referred to the judgements of Hutton J and Carswell J in the Craigavon Borough Council cases in which judicial notice was taken of the support given by Sinn Fein to the Provisional IRA.

- (vii) Generally, as to the right to withhold payment of grant from individuals who are known or reasonably believed to have connections with paramilitary organisations, or some other involvement in terrorism.

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