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## Record of meeting

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TITLE	Operation Kenova Governance Board		
SUMMARY	Record of discussions and recommendations made by the Board		
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**Minutes of Meeting 3<sup>rd</sup> May, 2022- 16:00 – 18:00 - Europa Hotel, Belfast**

**Present**

Iain Livingstone – IL (Chair)

Bertha McDougall - BMc

Rev. Harold Good – HG

Fr. Martin McGill – MM

Jon Boutcher – JB

Keith Surtees – KS

Liam O’Brien – LO

Phil Wells – PW (via Microsoft Teams)

Monica McWilliams - MMc

**Guests**

Tony Fuller - TF

Andrew Mortimer - AM

**Minutes**

Liz Charters

**Apologies**

None

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**1. Minutes of last Board Meeting 17<sup>th</sup> November 2021**

The minutes were agreed as an accurate record of discussions.

**Board Member (MMc)** noted that Southern Ireland should be referred to as the Republic of Ireland.

**2. Governance Board Membership**

**JB** provided context by updating the Board his anticipation of timescales that work would be completed on Operations, Kenova, Turma and Mizzenmast by the end of 2022 and that by early 2023 the Kenova report would be completed and would be circulated to the Board. Operation Denton, the review of the Glenanne Series would not be completed until the end of 2023-early 2024. **JB** reminded the group that the Operation Denton terms of reference require a report to be produced at the culmination of the review as opposed to the submission of prosecution files.

Taking into consideration the timescales for the Government Legacy Bill it is therefore likely that the Kenova Governance Board will have between one and two years to run before it is no longer required.

In the light of the update from **JB** the group discussed whether the remaining five members would be able to provide the required authority around the operation in terms of due process, financial probity, HR etc. or whether consideration should be given to the recruitment of a new member to fill the vacancy created by the sad passing of Sir John Chilcot.

Discussion took place and it was agreed that the Kenova Governance Board will continue to operate with the current five non-executive members. This will be kept under review however, for the reasons articulated the current non-executive members provide sufficient breadth of expertise to provide the required function.

**3. Quarterly Update to CC Simon Byrne (PSNI)**

**JB** highlighted the main points of the circulated report.

**JB** noted the status of many items within the report as agenda items in themselves.

**JB** updated on the significant interactions with families in the last quarter and stated his confidence in providing the promised information to families prior to any Government legislation on Legacy.



#### **4. Operational and Public Prosecution service Northern Ireland**

**JB** clarified the complexities in respect of the geographical location of suspect and the location of the incident.

**JB** updated in respect of the murder of Jean Smyth-Campbell (Operation Mizzenmast) that a report for the family and an incident report are in progress and the incident report will be passed to Police Prosecution Service Northern Ireland.

**JB** updated that the Kenova Interim Report is expected to be published before the Operation Mizzenmast report.

**KS** updated in respect of the challenge caused by the PPS NI blockage, the considerably longer time taken to bring cases to court compared with the rest of the United Kingdom has been referenced in the Interim Report.

**JB** explained that the threats of today are prioritised over legacy cases.

Discussion took place in respect of the prosecution of state agents, the technicality cited by PPS preventing prosecution and counsel advice to Kenova in respect of this.

The Board expressed the hope that when the Kenova report is published there will be lessons for the future in respect of state agents and the fine line between someone acting on behalf of the state and collusion.

It was agreed that the Governance Board have a role to play in publicly communicating a clear message to stakeholders in respect of the considerable work ongoing and which is possibly unseen outside of the Operation.

#### Operation Denton

**LO** updated that 115 incidents are within the scope of Operation Denton and 93 cases from the period 1972-78 are subject of detailed reviews.

**LO** reported that resource issues reported previously have eased.

#### **5. Kenova Protocol and Report**

**JB** reminded the Board that the Kenova protocol provides a process for fact checking and to raise any legal issues. Following advice from counsel, the decision has been taken to produce the final protocol when the Kenova report is published; this will be shared with the Board.

#### Interim Report

**JB** reported on the progress of the Kenova Interim Report which will be published on the Kenova website when complete.



**JB** explained that this will be in addition to the family reports which will be produced for each of the Kenova families.

The report is currently in the editorial stage and will be scrutinised to ensure that it is robust and can withstand challenge.

Discussion took place in respect of possible publication routes, **JB** explained that, to avoid any prejudicial issues, authority will be required from PPS NI prior to publication by Chief Constable PSNI, however it was also noted that the Chief Constable PSNI may ultimately decide not to publish the report.

The group will be kept updated on developments as this progresses

#### **6. An Garda Siochana response to Kenova on information sharing**

**JB** reassured the Board that whilst there remain challenges with the sharing of information from An Garda Siochana traction is now being gained. The Independent Steering Group met with the ROI Minister for Foreign Affairs and asked him to take the information sharing issue forward on behalf of the operation.

**JB** provided the Board with an update in regarding a recent ISG meeting with Commissioner Drew Harris and a representative of the Ministry of Justice Northern Ireland in respect of access to material held by AGS. A route by way of a legal “statutory instrument” has been suggested as a potential solution to share the information.

**Board member (MM)** proposed that consideration should be given to including members of the Governance Board at such meetings alongside members of the Independent Steering Group

Discussion is ongoing both with AGS, MOJ NI and Taoiseach to resolve this impasse.

**JB** explained that there are a number of civil cases being brought by the families of victims some of which pre-date Kenova and others brought where, as the information is being discovered, families are keen to establish the truth. Under normal circumstances it would be expected that a criminal case would be quicker than a civil case however given the delays in the Irish system this isn't currently the case. The team are working to ensure that the security of the material held is managed effectively.

Discussion took place in respect of the impact the proposed legislation could have on civil cases and the knock on effect to the work of Kenova and resources. The impact on victim and survivor services was also noted.



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## 7. Risk Register

**AM** outlined the current risks as set out in the Risk Register and highlighted the following:

### Risk 12 – Funding

**AM** stated that the current funding arrangements whereby funding is provided by the Chief Constable PSNI prevent Op Kenova from being fully independent of changing force priorities.

Given the considerable financial pressures faced by PSNI, the Board discussed the possibility of ensuring that Operation Kenova work is in some way financially protected by PSNI in the event of leadership change.

### Risk 16 - Accommodation

**AM** explained that the Metropolitan Police Service no longer require the building which is currently partially occupied by Operation Kenova and will relinquish the lease later in 2022. This means that the Operation need to either negotiate with the landlord to remain within the current premises or seek different accommodation.

**AM** highlighted the work being done to support the continuity of premises for the Operation through the Northern Ireland Office.

**KS** explained the additional time and cost which would result if the Operation had to move to new premises which were not equipped to the same level of IT and security.

## 8. **Finance**

**PW** introduced the circulated report and highlighted the following points:

The 2021.22 outturn had enabled the operation to reduce the financial request from PSNI due to the un-spent reserves built up from previous years.

**Chair** noted the good financial governance which had resulted in the significant underspend to carry forward. He explained the financial aspect to the accommodation risk that is listed on the risk register and that, at this stage the financial risk associated is for noting as there is nothing more proactive that can be done at the moment.

Discussion took place in respect of the final outturn for the Operation. In respect of value for money, **JB** stated that the investigative work has been done and the Operation cannot be responsible for the decision by others not to prosecute. The cost of the operation compares favourably with other enquiries.

**Chair** acknowledged the support to the Operation from Phil Wells and Bedfordshire Police.



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**9. Government Legacy legislation**

**JB** updated on the anticipated Government timescales for the introduction of the draft legislation, it is expected that the bill would be brought for Royal assent this calendar year.

**Chair** stated that the Governance Board would be kept up to date on progress and their assistance would be sought as required.

**JB** agreed to ensure that the Governance Board are briefed on developments in respect of the draft legislation and made aware of key press releases.

**10. Any other business**

**JB** thanked the Board for their continued support.

**Board Member (MM)** stressed the importance of continued communication in respect of the Kenova Report and the forthcoming legislation.

**Board Member (HG)** updated the Board in respect of the Day of Reflection planned for 21st June which has been adopted by Belfast City Council, there will be a number of events planned and a service will be held in the Cathedral.

**JB** updated that the Kenova Report has mentioned the Day of Reflection.

**Chair** took the opportunity to thank the whole Kenova team for their work which was echoed by the Board members.

**11. Date of the next meetings:**

Wednesday July 27<sup>th</sup> 2022                      16:00 – 18:00

Wednesday 26<sup>th</sup> October 2022              16:00 – 18:00