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# OPERATION KENOVA

Record of meeting

AUTHOR		Sharon Dutton	
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SUMMARY	Record of discussions and recommendations made by the Board		
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# OPERATION KENOVA

## Minutes of Meeting held on 27th June 2023 in Europa Hotel, Belfast

### **Present**

Iain Livingstone – IL (Chair)

Bertha McDougall – BM

Monica McWilliams – MMW

Rev. Harold Good – HG

Fr. Martin Magill – MM

Jon Boutcher – JB

Keith Surtees – KS

### **Guests**

Jason Fielding

Russ Walker

### **Minutes**

Sharon Dutton

### **Apologies**

None recorded

1. Introduction, Welcome, Apologies
2. Declaration of interests since last meeting
3. Risk Register
4. Media Strategy
5. Interim Report Publication
6. Legacy and Reconciliation Bill and ICRIR Update
7. Finance
8. Any other business
9. Next Meeting - September 2023



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## 1. Introduction

**Chair** opened the meeting and introduced Op Denton SIO Jason Fielding and new PA Sharon Dutton to the Board.

The minutes of the last meeting held on 28<sup>th</sup> February 2023 were agreed as a true record. It was agreed that the actions arising from that meeting were complete and were discharged.

## 2. Declaration of Interests

**Chair** confirmed that he will be retiring from Police Scotland in August, however, it is his intention to remain on Op Kenova Governance Board.

## 3. Risk Register:

### Operational Update

**JB** stated that a lot had happened since the last meeting in February and referred to another meeting he had attended earlier that day with CC Simon Byrne and ACC Mark Hamilton where they discussed the financing of Kenova at a higher level.

**JB** discussed the current position with PPS and how, following the passing of N40, and in cases where evidentially he was the only known perpetrator they were currently drafting letters to the families to advise that no further action would be taken. PPS continue to consider the other cases.

Operation Turma also awaits a decision but following a meeting with them that day, this appears to be positive.

The final report in respect of Op Mizzenmast is with Oliver Sanders KC for checking and the Smyth family have been updated.

**JB** explained that the Interim Report was now at the security checking phase and how the Cabinet Office had until this Friday, 30<sup>th</sup> June to respond. An email had just been received from them highlighting an issue from Prime Minister's Questions when Theresa May stated incorrectly that the only legacy investigations in NI at the time were military. The Cabinet office suggested that she should therefore be part of the Maxwellisation process and that this be carried out prior to their responding. **JB** explained how he had subsequently received an acknowledgment of the mistake and that all the Op Kenova families were notified of this at the time.

**JB** stated that Lord David Anderson and Jonathan Hall KC had read the report and positively fed back that there were no security issues within the report.

**Board Member** enquired if following this response from the Cabinet Office any changes would be made to the report?

**JB** confirmed that he had no intention of changing the report.

Other Issues currently faced with regards to Op Denton and the Glenanne Gang were access to AGS material / intelligence because of their lack of resources. It had been agreed in a recent meeting with CC Drew Harris and ACC McElgunn that they are willing to assist us in this regard.



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**JB** explained how Monday's vote on the Legacy Bill had failed and the amendments required, the main one being the Immunity Clause, voted out in its entirety. This had been included purely to protect the military. Positive comments were made about Op Kenova and how the ICRIR needs to reach our high standards, especially because of our work around victims.

**Board Member** stated that they are coming up to the Summer Recess on 20<sup>th</sup> July.

**Chair** commented that their resistance to change hadn't worked.

**JB** explained about the difficulties we have experienced in confirming the death of N40 and how warrantry was being pursued to obtain the death certificate in order to appease the families and avoid any conspiracy theories. Following his death, the Interim Report had been amended accordingly. He should have been prosecuted in 2020.

**JB** updated the board regarding the situation facing CC Byrne and the PSNI with severe cuts to their budget resulting in a reduction to our budget to £4M for financial year 2023/2024. Expressed concerns that the shortfall of £1.9M will result in a reduction of half of Op Kenova staff in September and we are still required to complete the Op Denton report by next year.

**JB** detailed the four options discussed with CC Byrne in the meeting that morning:

- (i) The Irish Government.

This was discussed at a recent meeting with Martin Fraser, Irish Ambassador

- (ii) The ICRIR budget of £250M

**JB** referred to a positive response from ICRIR Commissioner – Designate, Sir Declan Morgan who would support this. A meeting is to be set up hopefully next week with CC Byrne, ACC Hamilton, the treasury and Tristan Pedalty of ICRIR to discuss further.

- (iii) The PSNI

At the meeting that day, it appeared hopeful that the funding would come from them

- (iv) The Department of Justice

**JB** is arranging to meet with the new permanent secretary Richard Pengelly next week.

Discussion took place about the logistics of these options and the limited time frame being by the end of July. Concerns raised around information being leaked and why Op Kenova should be prioritised over other cases.

**Chair** commented that as PSNI had commissioned and instructed Op Kenova, it should be funded by them.

**JB** concluded that there should be more clarity following the meeting next week.

Action: **JB** to update all board members following the meeting

**JB** read out the contents of an article from Belfast Telegraph following the outcome in the House of Commons the previous night



## Civil Claims:

**KS** explained that the civil cases are considered to be a “red risk” on the chart because of the large volume of paperwork involved (in excess of 10,000 documents), much of which is sensitive. This has fallen to Kenova to assist in the 30 plus claimants whose cases already existed but never progressed until Kenova stepped in.

**JB** these cases will need to be finished and we will need a handover plan.

In response to **Board Member** asking how they will fit in with the Legacy Bill, **KS** stated that they would need to take them over and they might increase after the Interim Report is published.

Action: <b>KS</b> to prepare a handover plan for legacy cases.
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## Funding arrangements:

**JB** stated that the budget is now effectively reduced even further to £3.5M as CTPHQ no longer pay our rent and we will need to pay property services going forward.

**KS** commented that the cost is exacerbated by our need for a strap environment that can handle sensitive material.

**Publication:** covered

**Legacy Bill:** covered

## Decommissioning costs:

**KS** reported anticipated costs in the region to £50,000 to decommission our building.

Brief discussion regarding Op Kenova assets being listed separately.

## 4. Media Strategy / 5. Interim Report Publication

**JB** discussed the need for a media strategy to be agreed with CC Byrne who has been very supportive.

**Board member** questioned the budget for media and suggested that we should consider employing a good independent company in NI who would have a better idea of potential criticisms once the report is published.

**Chair** and **Board Member** agreed that it would be worthwhile giving consideration to this point.

**KS** commented that it would be **JB** who would be criticised.

**Chair** stated there will likely be pressure from the other agencies.



**JB** explained the mechanisms and the current situation regarding the report. The next stage will be the submission to PSNI however CC Byrne is on leave throughout August. At this time, the draft report will be shared in strict confidence with the Governance Board and other stakeholders.

Following a request for further clarity regarding the timeline of the report and anticipated publication date, **Chair** requested that **JB** explain the various stages in more detail.

**JB** updated the Board accordingly, explained the various deadlines and stated that he anticipated that publication would take place in September. If taken to court, we would be able to justify the whole process.

**Chair** commented that there must be PSNI Chief Constable's consent or there is a potential vulnerability.

Discussion took place regarding effects to Op Kenova of the glacial pace of the PPS and how this has been included in the report.

**JB** stated that he has also written to the Director of Public Prosecutions Stephen Herron about his concerns. They weren't however included in the Maxwellisation process.

**Board Member** stated the PPS have made allegations that the staffing of Op Kenova cases has been the cause of delays to current prosecutions.

## 6. Legacy Bill and ICRIR

Already covered.

## 7. Finance

**KS** explained the contents of the Governance Board budget report 2023/24

**JB** commented that there has been an £80K overspend in legal fees due to the Interim Report (£200K compared with the proposed £120K. The Op Denton report will also incur legal fees.

**JB** stated that following on from the meeting earlier in the day, he was hopeful that we will get the budget shortfall. He expressed his concerns of what the reduction in staff would mean to Op Denton and how the report would be delayed considerably.

**KS** stated that the financial impact is also reducing our ability to proceed further with the civil cases.

**JB** stressed that three or four excellent members of staff has already left us in recent weeks because of the uncertainties. We are also losing officers on promotion.

Following a question from **Board Member** it was confirmed that this relates to the 63 staff referred to in 4.1 of the finance report.

**JB** gave an example of the forensic co-ordinator on Op Turma who had recently left us to work in immigration and how his expertise had resulted in achieving the evidential threshold on Op Turma.

**Chair** acknowledged the effects that these uncertainties are having on Op Kenova and the importance of resolving the matter expediently.



Following a question from **Board Member** regarding overtime, it was confirmed that overtime is currently banned and a brief explanation given of comparisons between Police officers and agency costs.

**JB** confirmed that overtime is always reviewed at the Business KEG's, broken down by individual employees and closely monitored.

**Chair** agreed that this is good management practice.

**JB** stated that Beds Chief Constable Trevor Rodenhurst has also expressed concerns regarding the closing down of Op Kenova and that no liability is placed on Bedfordshire Police.

**Chair** agreed to close off the Budget papers for 2022/23. He expressed his gratitude to Bedfordshire Police.

## 8. Any Other Business

**JB** referred to when he was first recruiting staff for Op Kenova and, because of mistrust, his decision not to employ PSNI staff or ex-military giving no grounds for any conflict of interest. This worked exceptionally well and built up the trust of families.

**KS** referred to Op Turma that relates to an alleged shoot to kill policy. Op Kenova were asked by PSNI Chief Constable to investigate the murder of three police officers. This file has also been sitting with PPS for some time. There have been concerns from the families about the case being timed out by PPS. However, progress was made in the meeting today around key evidential points and significant new forensic evidence discovered by the team and hopefully they will make a decision soon.

**Chair** recognised the excellent work carried out by Op Turma staff and asked that his gratitude be passed on. He also asked Op Denton SIO **JF** to provide an overview of the challenges faced.

**JF** explained that there have been challenges since its inception in 2016. 120 victims and family members have been spoken to, some of whom have never spoken about their experiences before. Our forensics co-ordinator looked for any gaps, the original murder boxes were reviewed, including bombings and attempts. Staff were imbedded in PSNI and Security Services and material has been gathered from MOD, Whitehall and other partner agencies. Good progress being made in relation to the report being complete by May 2024, dependant on the challenge re staffing.

**Chair** asks about any AGS issues.

**JB** confirms that there are staffing issues and disclosure issues, however the meeting with the new Chief Constable was positive.

Discussion regarding Paul Bew following a question from **Board Member**. It was explained that he had been a speaker last week on the Op Kenova CPD day.

Date of next meeting was discussed and it was agreed that it would be in September but there would be some flexibility around the date and that a Teams meeting would be considered.

**Board member** asks that staff that were leaving be thanked for their work.





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**Chair** also asks if there was a way in which any of the board could be of any assistance.

The meeting concluded with a quick discussion regarding Item 6 – the Legacy Bill and how the immunity clause will go back to the House of Commons and not the Lords. The debate should take place before the summer recess. Royal assent expected to take place in November.

**Chair** stressed the good work carried out by Baroness Nuala O'Loan and her colleagues.

**Chair** closed the meeting and reiterated that the next meeting in September would be more flexible.