

2 March 2021

Dear Mr Boutcher,

You will recall that the Malone House Group met with yourself and Mick Reay in Belfast on 11 November 2020 to discuss Operation Kenova and related legacy matters.

Reference was made during the meeting to the ‘Independent Review of Article 2 Compliance’ carried out by Alyson Kilpatrick BL which is on the Kenova website, dated 9 February 2020. You indicated you were willing to consider any legal questions regarding that review and to pass on what we might submit to Ms Kilpatrick for her comment.

I am now attaching a legal opinion by Peter Smith QC and solicitor Neil Faris on the independent review. It is entitled, *The requirement of compliance with Article 2 of the European Convention on Human Rights in legacy investigations in Northern Ireland - Does Operation Kenova comply?*

It would be the case in answering the question, and for the reasons they set out, that Operation Kenova fails to meet the critical requirements of Article 2.

This is by no means the final word in assessment of that article. Indeed it could be said there are many options on how to interpret, let alone try to deal with its apparent requirements. It is however important to point out that the conventional wisdom there is a single, simple way to address the article and its jurisprudence is a matter of great concern.

In relation to Article 2, and indeed to other ECHR articles, the Malone House Group as an NGO, has provided two other legal opinions to the Committee of Ministers of the Council of Europe, which are now published on the Strasbourg website. I also attach them and their cover notes for easy reference.

Mr Faris and Mr Smith are happy to meet with Ms Kilpatrick and Kenova and discuss further points that might be raised and on their reasons for coming to the above conclusion.

Yours sincerely

Jeffrey Dudgeon (Malone House Group Convenor)