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3 October 2018

Dear NIO Legacy Policy Team

I enclose a copy of the Malone House Group’s book *Legacy: What to do about the Past in Northern Ireland?*

Please treat this as our response to the NIO Legacy consultation.

I have also enclosed details about the book’s publication and launch, and the conference in March whose proceedings are at its core.

I will follow up with an electronic version of the book in a Word version, by email.

Please find below details of the book, and the text of the cover and foreword which give a condensed version of the group’s view.

It is essentially one of asking for the abandonment of the Bill and a review instead of simpler and cheaper options.

Yours sincerely

Jeffrey Dudgeon (Cllr.)

***Legacy: What to do about the Past in Northern Ireland?***

Editor for Malone House Group: Jeffrey Dudgeon

Belfast Press

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Also available in Kindle form

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Cover photograph of the aftermath of the Enniskillen bomb in 1987 courtesy of Raymond Humphreys, Enniskillen

<https://amzn.to/2Ef1OgR> Paperback

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**Cover text:**

**The Shadow of the Past**

This book is in large part the proceedings of a conference on Legacy Legislation at Malone House in Belfast on 3 March 2018. The speakers and authors published here are from a range of backgrounds and political outlooks. What they share in common is a deep concern over the inadequate or one-sided political, legal and academic agenda on the matter of addressing the Past in Northern Ireland.

They also share a belief in the necessity of the rule of law and the protection of civil liberties.

*What to do about the Past in Northern Ireland?* is refreshingly different from all other publications on the matter, particularly those issued by NGOs and the universities. It fills a huge gap which we hope can reshape the agenda and the direction of travel on legislation.

The notional Legacy Bill and its proposed Haass-type bodies are deeply flawed and over-complex, indeed unworkable. They do not serve the needs of victims. We believe it would be preferable that the issues are approached in different, simpler and better ways. To that end we aim to develop a new consensus on alternative structures to address the Past.

**Foreword:**

This collection of papers stems from a conference on 3 March 2018 in Belfast’s Malone House. The range of legal, academic and political speakers was impressive more so because it is rarely heard. It is not the predominant voice in the media and certainly not the Academy or the funded sectors.

Until the (initial) Loughinisland judgement earlier this year, in a judicial review brought by retired police officers, it was never heard in the courts. And those courts, our Supreme Court and the European Court of Human Rights (ECHR) are awash with Legacy cases and inquests.

We aimed to change that at Malone House by developing a new consensus on alternate ways to address the Past, ones that can bring peace of mind to innocent victims and justice – so far as that is possible.

By publishing our papers we hope to reshape the agenda and indeed the direction of travel. We hope to see this book read and seen far and wide but most especially in Government, law schools and at Westminster where these matters are again being decided.

The long-promised Legacy Bill remains unpublished at the time of writing. Its proposed Haass type bodies like HIU are deeply flawed and mindlessly complex. We believe it would be preferable that the issues are approached in different, simpler and better ways.

The collapse of the NI Assembly and the fact that it had ceased to be a legislative body anyway, expatriating controversial law making – as with Legacy – to London means our perspective and actions have to refocus.

The view that the investigations of the Past can be time-limited by Parliament to five years is entirely misplaced. One opinion expressed from the floor at Malone House was that they would take 500 years. Given the refusal by the Foreign Office, and the Government generally, to argue otherwise, the dogma of ECHR Article 2 compliance on adequate investigations, goes unchallenged. The courts have no backstop and that version of Article 2 will remain supreme.

If left alone, it certainly means decades of litigation, as every inquest can be re-opened and probably will. And then re-opened again, alongside every ‘concluded’ HET case. (HET was actually a Strasbourg compromise. They can happen.) Otherwise, the shadow of the past can never be lifted. The past will be our future and history will be rewritten.

My thanks over and above those to the contributors here, go to Nigel Macauley and Richard Kennedy for arrangements at Malone House and to Derek Rowlinson of Library Ireland Media for this book’s typesetting and speedy production.

Jeffrey Dudgeon (Editor for Malone House Group)

24 March 2018