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The Rt Hon the Lord Thomas of Cwmgiedd
Lord Chief Justice of England and Wales
Royal Courts of Justice
Strand
LONDON
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10 March 2014

Dear Lord Thomas

“ON THE RUNS” REVIEW

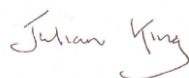
1. Following your discussion with the Secretary of State, she has asked me to provide some clarification on the recently announced review into the operation and extent of the administrative scheme for those referred to in Northern Ireland as “On the Runs” (OTRs). We of course stand ready to discuss further with the Judge, once appointed, if there are other issues he or she wishes to raise about the conduct of this review.
2. The terms of reference of the review, which were agreed with the First Minister, are:¹
 - a. To produce a full public account of the operation and extent of the administrative scheme for OTRs.
 - b. To determine whether any letters sent through the scheme contained errors.
 - c. To make recommendation as necessary on this or related matters that are drawn to the attention of the Inquiry.
3. The timetable for the review which was agreed with the First Minister is that it should report by the end of May. The reviewer is asked to make every effort to meet this timetable and to report to whatever extent is possible within this time. In any event, the review will conclude by the end of June.
4. It is of course for the reviewer to decide how best to carry out this remit. However with the agreed time constraints in mind, to assist the reviewer, it might be helpful to set out more fully matters which are, and are not, intended to be within the ambit of the review.
5. The purpose of the review is to examine the operation of the administrative scheme for OTRs. While the reviewer is free to consider the circumstances that led to the establishment of the scheme, a full examination of the political decisions and agreements making up the Northern Ireland peace process is not required. It is envisaged that to produce a public account of the scheme the reviewer will not need

¹ As set out by press release by the Prime Minister on 27 February 2014.

to examine the detail of every individual case dealt with under the scheme, but will look at a sample of cases from across the scheme.

6. The reviewer may choose to look at the grounds on which the police and prosecutors reached the decisions they did and the general approach they used, but will not need to re-investigate every case or make a fresh decision about whether a recipient of a letter should or should not have been pursued for arrest and prosecution. Decisions in respect of arrest and prosecution were and are a matter for the police and prosecuting authorities. If the reviewer decides to consider police or prosecution decisions in this way, they will not examine the detail of every individual case dealt with under the scheme, but will look at a sample of cases from across the scheme.
7. The reviewer should investigate and form a view on whether any of the letters issued under the scheme contained errors. In this context “errors” means the possibility that the letter contained inaccurate or misleading information, as in the Downey case. To investigate and form a view in respect of errors, the reviewer will not be required to examine the detail of every individual case dealt with under the scheme, but on the basis of the information obtained from such checks as are considered necessary by the reviewer, and from examination of the detail of any case produced by such checks, will report to the extent possible on whether there are errors in any of the letters sent.
8. The review should also examine and report on how any errors came to be made, including any systemic failings within the operation of the administrative scheme. In examining how errors came to be made, the reviewer will not examine the detail of every individual case dealt with under the scheme, but will look at any case in which an error is found.
9. While it is open to the reviewer to consider the general lawfulness and/or legal effect of the scheme and the letters sent under it, the reviewer is not expected to reach a conclusion on the specific legal effect of individual letters, or any action taken or not taken as a result of the letter being sent.
10. It is, as you will appreciate, essential that any further errors should be identified as quickly as possible, so that the Northern Ireland Office can take steps to correct them.

Yours



JULIAN KING