

The Baha Mousa Public Inquiry

Inquiry Chairman: The Right Honourable Sir William Gage

Ruling on Anonymity Applications

1. This is a generic, public ruling on the anonymity applications made on behalf of a number of military applicants¹. It accompanies rulings and decisions made on all of the individual applications, each of which are dealt with specifically in separate annexes to this part of the ruling. The annexes are in two forms: a full version for the applicants and a more limited version for the Core Participants. Because of the sensitive nature of their content, the annexes are confidential and covered by a restriction order which entails they are not for wider for publication beyond those two groups to whom they are addressed
2. The applications and orders sought are contained in forms which are supported by written submissions. Written submissions have also been submitted on behalf of the detainees. I have dealt with the applications on the basis of the written applications and submissions.
3. The general background to the Inquiry is set out in my Opening Statement made on 15 October 2008. I shall not repeat that background in this ruling. On 19 January 2009 I heard oral submissions from counsel on generic issues of law. These submissions were made in connection with anonymity applications made on behalf of six detainees. However, as I stated in the open version of my ruling in respect of those applications, it was convenient to hear submissions on the generic issues from all counsel representing soldiers or other persons who might subsequently make applications for restriction orders. **The statutory framework, the legal submissions on the generic issues and my conclusions on them are set out in the ruling dealing with those applications, dated 3 February 2009.** I need not repeat in these rulings the statutory framework, nor the legal submissions on the generic issues, nor my conclusions on them. It will suffice for me to say that there was agreement between all counsel in respect of the Article 2 and 3 threshold test. These rulings must be read in the light of the legal principles in respect of that test which are set out in paragraphs 10 to 17 of my earlier ruling.
4. *The common law test*
Counsel were not, however, agreed on the common law test. When dealing with the applications for anonymity made by the six detainees I did not find it necessary to resolve this issue. But in respect of the applications with which I am concerned in these rulings the difference in counsel's contentions, in some instances is, or may be, material and accordingly I propose to deal with this issue in greater detail than before. For ease of reference I shall start by incorporating into this ruling paragraphs 18 to 21 of my ruling of 3 February

¹ See Explanatory Endnote

2009, starting with the citation from Lord Carswell's Opinion in *In re Officer L* [2007] 1 WLR 2135.

"18. Turning to the common law test, Lord Carswell said:

'22. The principles which apply to a tribunal's common law duty of fairness towards the persons whom it proposes to call to give evidence before it are distinct and in some respects different from those which govern a decision made in respect of an article 2 risk. They entail consideration of concerns other than the risk to life, although as the Court of Appeal said in para 8 of its judgment in the Widgery Soldiers case [2002] 1 WLR 1249, an allegation of unfairness which involves a risk to the lives of witnesses is pre-eminently one that the court must consider with the most anxious scrutiny. Subjective fears, even if not well-founded, can be taken into account, as the Court of Appeal said in the earlier case of R v Lord Saville of Newdigate. Ex p A [2000] 1 WLR 1855. It is unfair and wrong that witnesses should be avoidably subjected to fears arising from giving evidence, the more so if that has an adverse impact on their health.'

19. Finally, Lord Carswell went on to suggest a combined test:

'29. In pursuit of this end, I suggest that the exercise to be carried out by the tribunal faced with a request for anonymity should be the application of the common law test, with an excursion, if the facts require it, into the territory of article 2. Such an excursion would only be necessary if the tribunal found that, viewed objectively, a risk to the witness's life would be created or materially increased if they gave evidence without anonymity. If so, it should decide whether that increased risk would amount to a real and immediate risk to life. If it would, then the tribunal would ordinarily have little difficulty in determining that it would be reasonable in all the circumstances to give the witnesses a degree of anonymity. That would then conclude the exercise, for that anonymity would be required by article 2 and it would be unnecessary for the tribunal to give further consideration to the matter. If there would not be a real and immediate threat to the witness's life, then article 2 would drop out of consideration and the tribunal would continue to decide the matter as one governed by the common law principles. In coming to that decision the existence of subjective fears can be taken into account on the basis which I earlier discussed (see para 22).'

20. It is in respect of the common law test that counsel differ. Mr Garnham submits that the common law in certain circumstances requires a court to find that there must be compelling justification for not granting anonymity. He relies on a passage in the judgment of Lord Woolf in *R v Lord Saville of Newdigate and others ex parte A and others* [2000] 1 WLR 1855 (see para 68(5)). He submits that this passage of Lord Woolf's judgment is not inconsistent with, nor has it been overruled by, *In re Officer L* and applies where the tribunal has found that although the test required for Article 2 and 3 has not been satisfied, the risk will be increased if the witness gives evidence without the protection of anonymity. In those circumstances, it is submitted, there must be some compelling justification for not granting anonymity. Mr Garnham accepts that if the tribunal finds that there is no increased risk it must carry out a balancing exercise of all factors when deciding whether or not to grant a restriction order.

21. Miss Hetherington submits that the test set out by Lord Carswell in *In re Officer L* does not require the court to find some compelling justification before refusing to grant anonymity when applying the common law test."

5. Since my earlier ruling the Northern Ireland Court of Appeal have considered precisely this issue on which counsel in this Inquiry disagree. Its decision is

reported in *In re A and Others Application* [2009] NICA 6, hereafter the *Nelson Witnesses’* case. In that case all three members of the court held that Lord Woolf in *R v Lord Saville of Newdigate ex parte A and Others* did not propound a rule of general application that compelling justification was required before anonymity could be refused where a risk to life arose.

6. Kerr LCJ, explaining the reasons for his conclusions said (see paragraphs [23] and [24]):

“[23] Lord Woolf’s discussion of the way in which the issue of anonymity was to be addressed necessarily took place in a common law context, since the Human Rights Act 1998 had not come into force at the time that the judgment of the Court of Appeal was delivered. It is clear, however, that the judgment was strongly influenced by the consideration that a refusal to grant anonymity might contravene a fundamental human right, the right to life. In *Re Officer L*, however, it had been held that the right to life under Article 2 of ECHR did not arise. Whereas in *ex parte A* the possibility (at least) of a violation of Article 2 arose, in *Officer L* that was not an issue.

[24] Largely for this reason I have concluded that Lord Woolf did not propound a rule intended to be of general application to the effect that where a risk to life arose, compelling justification was required before a claim for anonymity of witnesses could be refused. Put simply, the context here is different. Whereas in *ex parte A* the decision might well have infringed the applicants’ rights under Article 2, in the present case it has been determined that this does not arise. I am of the view that a risk falling short of that required to activate Article 2 of ECHR falls to be assessed simply as one of a number of factors in an even-handed evaluation of competing interests rather than as a matter which requires to be offset by compelling justification.”

7. Higgins LJ agreed for the reasons given by Kerr LCJ. He rejected the appellants’ argument that there must be some “compelling justification” for refusing anonymity in a case where the risk to life fell short of the Article 2 threshold. He accepted the argument put forward by the respondents that:

“[11] ... as Mr Eadie QC, who with Miss Grange appeared on behalf of the Inquiry submitted, there may be instances in which compelling

justification must be required to refuse the application, but this was not one of them. The Inquiry Panel correctly applied the test approved in *Officer L’s* application.”

8. Girvan LJ accepted the argument that Lord Woolf’s dicta “*in re A*” must be seen in “its proper factual context and not read as “... stating a broad overriding principle that the common law duty of fairness in any case where a claimed risk to life and subject (*sic*) fears arise requires that anonymity should be granted in the absence of compelling reasons”.

Girvan LJ continued:

“How the balance is struck in individual cases will, of course, be fact specific. Where there is a risk to the life of a witness the extent of the

risk is a highly relevant factor to be put into the scales. Common sense and humanity would lead to the conclusion that the greater the risk the more persuasive the case for anonymity and the more the court would have to be persuaded that the countervailing factors are even more persuasive so as to lead to a refusal of anonymity or, in the words of Lord Woolf, there would have to be some compelling reason for refuse (*sic*) anonymity. Using the terminology in *ex parte Brind* [1991] AC 969 there would have to be a compelling public interest of sufficient importance to justify withholding anonymity.” (See paragraph [23])

9. In a letter to the Solicitor to the Inquiry dated 12 March 2009, Samantha Ryb, a member of the Central Legal Services division of the Ministry of Defence, states that following the decision in the *Nelson Witnesses*’ case, the Ministry of Defence accepts that the common law test is “a straightforward balancing test”. However, she invites me to pay particular attention to the judgment of Girvan LJ at paragraph [23] to which I have referred above.
10. Mr Garnham QC, on behalf of the soldiers represented by the Treasury Solicitor, repeats and amplifies in written representations his submissions made at the second Directions Hearing. In summary, his submissions dated 12 March 2009 are first that the decision in *Re ex parte A* is binding on the Inquiry. Secondly, the decision in the *Nelson Witnesses*’ case is persuasive but not binding. Thirdly, the decision in the *Nelson Witnesses*’ case, insofar as it deals with the application of the compelling circumstances test, is wrong.
11. In respect of the third of these submissions Mr Garnham submitted that in *ex parte A* a distinction was made between the Court of Appeal’s approach to the Tribunal’s decision where Human Rights issues were involved and the approach where common law fairness issues were involved. It was in the context of the latter that the Court, as he submits, enunciated the compelling justification test; a test which all courts should apply.
12. In a careful analysis of the judgments in the *Nelson Witnesses*’ case, Mr Garnham criticised the decision of that court by reference to *ex parte A* and the judgment of Lord Carswell in *In re Officer L*. In short, he submitted that the fact that in neither *ex parte A* nor in *In re Officer L* did the possibility of a violation of Article 2 arise. Each proceeded on the assumption that there was no such breach. It follows, he submits, that much of what is said in the judgments in the *Nelson Witnesses*’ case proceeded on the wrong basis.
13. In response to these submissions, counsel for the detainees in written representations make a number of submissions. First, it is submitted that the decision in *ex parte A* does not set out a legal test for anonymity under the common law duty of fairness, and in any event is not binding on the Inquiry. In amplification of this submission counsel analyse passages in *ex parte A* which, it is submitted, demonstrate that it was a decision made on the basis of *Wednesbury* unreasonableness principles. In addition, it is submitted that the decision was based on a test under Article 2 of the ECHR not in force in the United Kingdom at the time and which test has now been superseded by *Osman v UK* [1998] 29 EHHR 245. Finally, in respect of this submission, counsel submit that the decision in *ex parte A* was limited to its own facts.

14. Secondly, it is submitted that the decision in *In re Officer L* does set out the test for anonymity under the common law test of fairness and must be followed by the Inquiry.
15. Thirdly, it is submitted that the decision of the Northern Ireland Court of Appeal in the Nelson witnesses' case, whilst not binding on the Inquiry, is correct.
16. Fourthly, the common law test of fairness is a simple balancing test.
17. These submissions brought forth further written representations dated 2 May 2009 by counsel for those soldiers represented by the Treasury Solicitor. In those representations, Mr Garnham QC points out that the difference between the parties has narrowed to two points. First, on the issue of what ground the Court of Appeal in *ex parte A* propounded its compelling justification test; and secondly, what was the scope of the decision in *ex parte A*. He submits on the first issue that the Court of Appeal's decision was, at least, based on both Wednesbury reasonableness principles and common law fairness. On the second issue, it is submitted that the compelling justification test announced in *ex parte A* is of general application and cannot be limited solely to the facts of that case.
18. The arguments on both sides have some force. It is true, as Mr Garnham submits, that there are passages in the judgment of the court in *ex parte A* which appear to indicate that the court did not confine its decision solely to Wednesbury principles (see for instance paragraphs 39 and 52). But equally, the court appears to be considering an Article 2 test (see for instance paragraphs 24-25; 37 and 68(4) and (5)).
19. Having considered all the submissions made on this issue I have reached the following conclusions. I accept that, strictly, I am not bound by the decision in the *Nelson Witnesses'* case. But since the issue of the appropriate common law test was expressly dealt with by that court, it is a decision which, in my judgment, is not only persuasive but deserving of great respect.
20. First, there can be no doubt that in the *Nelson Witnesses'* case the court held that the common law test of fairness did not import a test of compelling justification. It held that the test of compelling justification propounded by Lord Woolf in *Re ex parte A* was not of general application (per Kerr LCJ at paragraph [24] with whom Higgins LJ agreed, as did Girvan LJ on this issue in the appeal). So much is not in dispute.
21. Secondly, in my judgment, Lord Carswell in *In re Officer L* clearly intended his observations on the common law test to be of general application (see paragraph [29]).
22. Thirdly, Lord Carswell made no mention of a test of compelling justification as part of the common law test. A fair reading of paragraphs [28] and [29], in my opinion, leads to the conclusion that the common law test was one of balancing various factors, of which one was a soldier's subjective fears for his safety, whether objectively justified or not.
23. Fourthly, the passage in Lord Woolf's speech which is said to propound the compelling justification test, in my view, may just as easily be read as specific to the facts of that case as to having a wider application (see Girvan LJ's

reference to “its proper factual context”). The fact that Lord Woolf did not repeat it in *In re Officer L*, in my judgment, points to the former interpretation rather than the latter. There was no need for it to be overruled and, as Girvan LJ said in the *Nelson Witnesses’* case, there is nothing in *In re Officer L* to show that Lord Woolf was in error.

24. Fifthly, I have considered Mr Garnham's submission that the test of compelling justification means that the reasons for naming a witness must, by some margin, exceed the reasons for not doing so (see paragraphs 27 and 28 of Garnham's submissions of 2 May 2009). But, in my judgment, Girvan LJ's exposition of the balancing exercise is to be preferred. It provides a test with which all judges are familiar, which can readily be applied and which in my respectful opinion has the merit of common sense.
25. For these reasons, and the reasons expressed by the members of the Court in the *Nelson Witnesses’* case, in my judgment the contentions of counsel for the detainees are to be preferred.
26. In a number of these applications the decision whether or not to grant anonymity will not stand or fall upon the difference between these two tests of common law fairness. But where the application of one of the two tests may be, or is, determinative of the result, I prefer, and shall apply, Lord Carswell's test, as explained in the decision of the Northern Ireland Court of Appeal and with particular reference to Girvan LJ's comment in paragraph 23 of his judgment, to which I have referred above.
27. In regard to the Article 8 submissions, which were not relevant to my ruling of 3 February but are relevant to some of the applications below, I have referred to the decision of the House of Lords in *In re S (a child) (Identification restrictions on publication)* 1AC 593. All counsel agree that the principles in respect of Article 8 rights and the interplay between Article 8 and Article 10

are summarised by Lord Steyn in paragraph 17 of his Opinion in that case. They are:

“First, neither article has *as such* precedence over the other. Secondly, where the values under the two articles are in conflict an intense focus on the comparative importance of the specific rights being claimed in the individual case is necessary. Thirdly, the justification for interfering with or restricting each right must be taken into account. Finally, the proportionality test must be applied to each. For convenience I will call this the ultimate balancing test.”

28. My rulings in respect of these applications must be read in the light of the legal principles referred to above and in the ruling of 3 February 2009.

General submissions of the detainees

29. In their written submissions counsel for the detainees make some general submissions in relation to all of the applications and some general submissions specific to those applicants seeking screening orders. I set these out here. First, counsel remind me that in respect of the closed applications they have insufficient information upon which to comment or make meaningful submissions. They requested that the applicants be asked to provide more information. Enquiries have been made of counsel for the applicants in

respect of this request and further information has been supplied, resulting in the identities of some of the applicants being disclosed to the solicitors acting for the detainees. I am satisfied that the applications have now gone as far as they properly can in the open versions and I recognise that where applications are for full anonymity there is a limit to what can be said in the open versions of the applications.

30. I am conscious of the handicap which this places on the detainees. For my part, I have carried out a scrupulously close and intense scrutiny of the material in the closed applications before arriving at my conclusions and rulings.
31. Counsel for the detainees also make the point that the greater the number of applicants granted anonymity the greater the cumulative adverse effect on public confidence in the Inquiry. This submission is made with particular reference to applications which do not cross the Article 2 and 3 thresholds. Counsel accept that generally an applicant's home address and current occupation will not be relevant to the Inquiry but submit that each aspect should be considered on a case by case basis and not by a blanket ruling. I bear in mind these submissions. In making my decisions on each of these applications I am conscious that each must be decided on its own facts.
32. A number of the applicants seek an order permitting them to give their evidence screened from anyone save the Chairman and the legal representatives of the Core Participants. Counsel for the detainees submits that the general rule is that all evidence given orally in the Inquiry should be received with total transparency. It is submitted that there are important reasons for this general rule in particular it is important that the public and the Core Participants as well as the Chairman and the legal representatives have the opportunity of seeing the faces of witnesses when they are giving evidence. In written representations counsel for the detainees list seven factors which, it is submitted, demonstrate the importance to the general public and the Core Participants of seeing the witness's face when he or she is giving evidence. Amongst these factors is the important element of restorative justice which, so far as the detainees are concerned, will be hindered if they are unable to see the faces of those giving evidence.
33. In reaching my decision(s) on these applications I take into account these submissions. I add in this part of the Ruling that when considering all of these applications I am very conscious of the need for the proceedings of this Inquiry to be conducted as openly and transparently as possible. This means that the hearings should so far as possible be conducted in public; evidence given to the Inquiry should be made public wherever possible so as to maintain public confidence in the Inquiry; the detainees and the families of the two deceased men should be able, so far as possible, to participate in the proceedings and should, for this reason, as a general rule know the identity of a witness; and the Inquiry's ability to hold persons to account and make recommendations should be inhibited to the least possible extent.
34. But, I must also take into account countervailing considerations. The soldiers are quite entitled to have weight attached to their subjective fears: obviously, the more so, if there is some objective justification for such fears. I must also weigh the effect of individual orders on the transparency of the proceedings. For instance, obviously the effect on the openness of the proceedings by an

order restricting publication of names to the press and public will be less than that of a full anonymity order.

35. Counsel for the detainees also make submissions in relation to the threat assessments and advice as disclosed in a form of words agreed by the two agencies. I shall refer to these submissions in the passage dealing with threat assessments which immediately follows this section.

Threat assessments and advice

36. In the case of each applicant for protective measures, I must assess the risk to the individual applicant with particular regard to whether and to what extent the risk may increase if the applicant is called to give evidence with or without the protective measures which he or she seeks. This is not an easy process. Some factors will be common to all applicants but many are necessarily fact specific to each individual applicant. In simplistic terms, the risk to a witness can be seen to be a combination of a threat to the individual, which depends on the intent and capability of the relevant terrorist organisations, and the characteristics, including the vulnerability, of the individual, although some factors are to an extent inter-related.

37. As part of the assessment of the risk to Inquiry witnesses, this Inquiry, like others before it, has sought and obtained threat assessments from relevant Government agencies who have experience in assessing the threat from terrorists. It is a matter of public record that the Joint Terrorism Analysis Centre (JTAC) assesses the level and nature of the threat from International terrorism, whilst the threat from Irish and other domestic terrorism is assessed by the Security Service. The Inquiry has received threat assessments and advice from these two agencies in their respective areas of responsibility.

38. The assessments refer to five threat levels. These are designed to inform decisions about levels of security and are publicly available. They are:

- Low – an attack is unlikely
- Moderate – an attack is possible but not likely
- Substantial – an attack is a strong possibility
- Severe – an attack is highly likely
- Critical – an attack is expected imminently

39. The threat advice received from JTAC deals generically with the threat from International terrorism. I have agreed with JTAC that I can use the following form of words to explain this advice in a document for general release:

“JTAC assess that some Islamist extremists in the UK hold sentiments against UK military involvement in international conflicts in Muslim countries which may, when allegations of military personnel mistreating detained persons during these conflicts are exposed during a public inquiry, lead to extremists regarding those military personnel attending, as legitimate targets for attack

We judge, therefore, that there is an underlying threat to all UK military personnel and a heightened threat to those identifiable as being involved in allegations of mistreatment such as the Baha Mousa case.”

40. For my part, I observe that it seems apparent from what is known publicly about such recent attacks and attempted attacks on the public as there have

been in the United Kingdom, that International terrorists have tended, for the most part, to focus on high impact/high casualty attacks rather than on specific individuals, although there have been some exceptions to this.

42. The advice from the Security Service is specific to individual applicants and focuses principally on the threat from dissident Irish republican terrorist groups. I shall set out in more detail the advice when dealing with individual applications.
43. For my part, despite the evidence of increased violence in Northern Ireland, and evidenced by the murders of Sappers Quinsey and Azimkar on 7 March 2009, and the murder of PC Carroll on 9 March 2009, there does not appear to be any specific incidence of violence by dissident Irish terrorists in mainland Great Britain. This may indicate that the capability of such groups to transport their violent activities to mainland Great Britain is limited. It is perhaps worth noting the latest report of the Independent Monitoring Commission that such acts of violence, assault and murder as have been committed by dissidents have tended to take place in Northern Ireland and not Great Britain. This may reflect the dissidents' greater ease of operation in their home environment.
44. Counsel for the detainees have made generic submissions on the permitted form of words set out above. They submit that a threat assessed as moderate cannot, of itself, cross the "real and immediate" threshold necessary to engage Articles 2 and 3. They invite me to take into account some eight factors relevant to individual applicants when assessing the risk to the applicants. I do not propose to set these out in these rulings. I shall have regard to them when dealing with the individual applications. Counsel also urge caution when considering the threat from Islamist terrorists. It is pointed out that, so far as the detainees are aware, to date only one conspiracy to kidnap a British soldier has come to light. It is submitted that it appears to have been a rather inchoate and one-off act. Further, it is submitted that it is only when a witness lives in a particular area where he or she is likely to become a target of violent reaction by an extremist section of the public, as detailed by the "risk" (strictly speaking, threat) assessment, that I should consider more restrictive reporting orders. I shall give careful consideration to these submissions when reaching my decisions.
45. In respect of these threat assessments and advice, in my view a number of general points must be borne in mind. First, the five threat levels are broad indications of the likelihood of a terrorist attack. Each threat level is of unspecified width. A threat assessed as moderate for two individuals may encompass two persons at opposite ends of the spectrum provided by the moderate threat level. Secondly, assessment of threat is not the same as that of risk. Thirdly, it follows from the above that both the threat and the risk may be different from one individual to another and will depend to some extent on the individual's characteristics and circumstances. Fourthly, JTAC's advice does not take into account individual characteristics and circumstances. It is a generic assessment which is thought to cover all the military witnesses. Fifthly, the threat assessment and advice for any individual is only one element, albeit a very important element, to be taken into account in the mix which provides the decision on what, if any, restriction order should be made. Other factors, such as an understanding of the individual witness's role in the Inquiry, and the sensitivity or importance of their evidence are matters which the Inquiry is best placed to assess, taking

into account such submissions as the Core Participants and applicants have been able to make. Sixthly, the range of restriction orders varies from no restriction order to an order for full anonymity with screening. Within that range, a number of different orders may be made to reduce the risk, or limit any increase in the risk, to the applicant, without giving him or her full anonymity with screening, and without disproportionately compromising the transparency of the Inquiry's procedures. It must also not be forgotten that a substantial majority of the witnesses have not sought anonymity orders and will give their evidence without the protection of any such order. Seventhly, where an applicant's identity has come into the public domain in some other way, this is an important fact to be borne in mind when deciding whether a full anonymity order or some other restriction order is appropriate, but I might add that as with the detainees' applications, I have not adopted an "all-or-nothing" approach of saying that because a name has entered the public domain to some extent, no protective measures should be granted at all.

46. In this section, I am bound to add that I am confident that the applicants will be able to understand the reason for my decisions from this generic part of the ruling, together with the individual annexes covering the individual applicants. The information which I can disclose to the detainees and other Core Participants is necessarily more limited, but the open versions of the individual annexes have been compiled in such a way as to give them such information as I can. The Inquiry received full threat assessments in confidence and is not permitted to disclose them, even to the applicants. I entirely understand that from the point of view of the applicants this situation is not ideal. But, since I have a duty to assess the risk, I do not consider it right nor possible to close my mind to the contents of the full threat assessments. Where the full threat assessments further support my conclusions, I indicate such in a confidential annex which will be available to the court in the event of a challenge to any of these rulings.

Review and apology

47. Finally, where I have decided to make a restriction order or orders in respect of an applicant, if at any time the restriction order appears to be an impediment to the Inquiry's task I may review the grant of it. I recognise also that where I have made orders circumstances may subsequently show that the orders are unnecessary or inappropriate and can be discharged. In this sense the orders are not necessarily final. In all cases if at some time in the future I am considering the discharge or variation of an order I shall give all parties an opportunity of making further representations. Each application is dealt with separately and attached to the above general remarks.
48. Lastly, since this part of the ruling will go to all applicants and to the Core Participants, I would like to express my regret over the length of time which it has taken to process these anonymity applications. I see no purpose in attempting to attribute blame to individuals or bodies for this delay. There have been a number of factors which together caused the process to become long drawn out and one which I have found, as no doubt have others, cumbersome and frustrating. It might have been possible by Draconian measures to have short-circuited some of the delays but I have been conscious throughout of the need to treat all parties fairly, particularly on issues as important as those raised by the applications and the responses to them.

Dated this 31st day of August 2011



**THE RT HON SIR WILLIAM GAGE
INQUIRY CHAIRMAN**

EXPLANATORY ENDNOTE

This is an open version of the ruling given on terms of confidentiality to Core Participants in July 2009. Few amendments from the version provided to Core Participants have proved necessary. The Inquiry has released an open version of this ruling so that the legal basis of the anonymity decisions in respect of military applicants is available to the public and to other bodies who need to consider applications for anonymity. Since the ruling was made, in September 2010, the Home Secretary announced that the threat from Ireland-related terrorism in Great Britain is Substantial.