

Secret Court Hearings

On **19 and 20 June 2014** at the High Court the Home Secretary will apply for secret hearings in a civil claim brought by former Northern Ireland agent Martin McGartland. He is suing over failure to provide him with aftercare following a shooting by the IRA which has left him unable to work.

The Home Secretary is seeking to rely on new legal powers introduced in July 2013 in the Justice and Security Act 2013 allowing Closed Material Proceedings (CMPs) in civil cases. When these were debated in Parliament the former Secretary of State for Justice Ken Clarke argued that they were necessary to protect national security in claims brought by terror suspects. However Martin McGartland's claim does not involve any aspect of his work as informant but relates to failures to pay for psychiatric care and for disability benefits.

CMPs are a serious aberration from the tradition of open justice as the claimant and his lawyers are excluded from hearings and not permitted to see secret evidence. Martin McGartland does not believe that national security is at risk but that secret hearings are being sought to shield every aspect of the work of the security services from scrutiny.

The Government's response to the claim is to 'Neither Confirm Nor Deny' (NCND) that Martin McGartland is a former agent despite the fact that public statements have been made by official bodies including the Crown authorities, the police, Members of Parliament and the Bloody Sunday Inquiry naming him as such. His lawyers will argue that reliance on NCND in these circumstances is unlawful.

Martin McGartland's solicitor, Nogah Ofer of Bhatt Murphy, said:

"This represents a slippery slope towards ever increasing secrecy undermining fair and equal access to the courts.

Hiding behind 'Neither Confirm Nor Deny' is absurd when there has been official public confirmation for over a decade of Mr McGartland's role including acknowledgment that he has given valuable service to the country"

In 1991 the IRA uncovered the fact that Martin McGartland was acting as informant and he escaped from a kidnap by throwing himself through a third floor window. He recovered from his injuries and was resettled under an assumed identity in the north of England. In 1999 he was ambushed and shot 7 times leaving him with debilitating post-traumatic stress disorder. He has published a best-selling book about his experiences, 50 Dead Men Walking, which has been made into film.

Mr McGartland is represented by Nogah Ofer of Bhatt Murphy, Phillippa Kaufmann QC of Matrix Chambers and Henrietta Hill of Doughty Street.

For more information contact Nogah Ofer, Bhatt Murphy solicitors 020 7729 1115 or 07941 514330

