

THE BILLY WRIGHT INQUIRY

Chairman: Lord MacLean

DECISION BY THE PANEL

In the Application by

Witness Kevin John Walker

For

Screening at the Billy Wright Inquiry

Introduction

1. Persons likely to be called as witnesses before the Billy Wright Inquiry ('The Inquiry') were invited to submit applications for anonymity and/or screening in accordance with the Inquiry's Anonymity Protocol of 30 June 2006. The Inquiry has received a number of such applications.
2. Mr. Walker has submitted an application requesting screening. Any information that has been taken into account by the Panel in their deliberations is referred to in general terms where appropriate in this decision.
3. The Panel received an individual Threat Risk Assessment for Witness Walker from the Security Service along with confidential additional information from the Police Service of Northern Ireland (PSNI). The applicant was sent a restricted part of the Security Service assessment and a redacted version of the PSNI information as the Inquiry Panel was refused permission by both agencies to disclose the material in full. No conclusion adverse to the application has been based on any material undisclosed to the applicant.
4. The Inquiry also received a Generic Risk Assessment along with an explanation as to the various categories of risk. A copy of this was sent to the applicant.

5. Parties who have been granted Representative status at the Inquiry have been given the opportunity to see a copy of the application. Comments were received from the family of Billy Wright through their solicitor John McAtamney and a response to those comments was received by those representing the witness. More recently, the Inquiry received confidential information from the Operations Directorate of Prison Service Headquarters. This has been considered by the Panel and a summary has been sent to the relevant parties. Comments from those parties have been received and considered.
6. The Panel met and considered all of the above material together with the reports of the International Monitoring Commission (IMC), in particular the 18th Report from May 2008.
7. The Inquiry being conducted by the Panel is a Public Inquiry and there is a presumption that its proceedings should be conducted, in so far as is possible, openly and in public. However, the Panel also has a duty to act fairly and in a manner compatible with the European Convention on Human Rights (ECHR).
8. In approaching this and other applications we have had regard to the opinions of their Lordships in the case of *In re Officer L (Respondent)* (Northern Ireland) [2007] UKHL 36 at paragraph 29 and have considered the applications on a common law basis, having regard to Article 2 issues where that is necessary. We have also considered Article 8 issues where they arise.

The Application – Witness Walker

9. Witness Walker seeks screening whilst giving evidence. His application is predicated on the fact that he is a serving Prison Officer.

Article 2

10. The Generic Risk Assessment places the existing threat to prison staff at 'moderate'. The individual Threat Risk Assessment provided for Mr Walker by the Security Service assesses that in the event that he gives evidence without screening, the level of threat would rise to 'moderate', reflecting the increased potential of an attack by dissident Republican groups. To require this applicant to give evidence in public without screening would therefore increase the risk to him and his family. 'Moderate', in threat assessment terms, means that an attack is 'possible but not likely'. An increase in threat to 'moderate' does not therefore meet the high threshold of a 'real and immediate' risk to his life required by Article 2 of ECHR. There is no current Police intelligence or information which would give rise to concerns in respect of the applicant's security.

Common Law

11. The applicant has expressed subjective fears for his safety should he be required to give evidence in public. Those fears are based on his position as a serving Prison Officer, the threats he has received, and his previous employment. There is no specification as to the nature of the threats. His past employment is completely irrelevant and he will not be asked about it.

12. The Generic Risk Assessment indicates that the applicant's actual evidence to the Inquiry may have an impact on his level of threat. This witness will be called principally to speak to procedures for searching members of staff. His evidence is entirely uncontroversial. He will face no criticism whatsoever. We have taken account of the fact that there will be an increase in the level of threat to the applicant in the event that he is required to give evidence at the Inquiry without the provision of anonymity and screening. However, there is no indication that the level of threat to him will rise beyond 'moderate'.

13. We have given careful consideration to the terms of the IMC Reports and in particular, the 18th Report from May 2008. In particular, we have taken into account that dissident republican terrorist groups continue to pose a significant threat. The LVF has not been involved in any terrorist activity during the same period and is thought to have no political purpose. We note there is no reference to any attacks on Prison Service personnel in the latest Report. There was only one paramilitary murder in the period. The total number of casualties from shootings and assaults has risen. However, the figure for shootings is the second lowest since 2003 and is said to confirm the trend for less casualties from shootings.

14. We have also taken account of the supplementary confidential information received by the Inquiry from the Operations Directorate of Prison Service Headquarters. We do not consider that the information contained therein has any direct relevance to the application.

15. In the whole circumstances, we do not consider that it would be unfair to require the witness to give evidence before the Inquiry without screening. Accordingly, the application is refused.

R. M. Mackgarr

21 May 2008

SIGNED BY THE CHAIRMAN FOR AND ON BEHALF OF THE INQUIRY PANEL