Neutral Citation no. [2007] NIQB 34 | *Ref:* **GILC5808**

Judgment: approved by the Court for handing down | *Delivered:* **27.04.07**
(subject to editorial corrections)

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION (JUDICIAL REVIEW)

IN THE MATTER OF AN APPLICATIONS BY SHANE PHILIP DONNELLY AND PHILIP DONNELLY FOR JUDICIAL REVIEW

AND IN THE MATTER OF THE DECISIONS BY THE SECRETARY OF STATE FOR NORTHERN IRELAND DATED 4TH JULY 2006

IN THE MATTER OF DECISIONS OF THE CHIEF CONSTABLE OF POLICE SERVICE OF NORTHERN IRELAND DATED 23RD SEPTEMBER 2005

BETWEEN:

SHANE PHILIP DONNELLY and PHILIP DONNELLY

Applicants;

And

THE SECRETARY OF STATE FOR NORTHERN IRELAND

First named Respondent;

And

POLICE SERVICE OF NORTHERN IRELAND

Second named Respondent.

JUDGMENT

GILLEN J

The applications for judicial review

[1] The two applicants in this case, father and son, seek judicial review of decisions made by the Chief Constable of the Police Service of Northern Ireland and the Secretary of State for Northern Ireland in relation to the issue of firearm certificates to both applicants. In the case of the first named applicant, the son of the second applicant, it is in relation to the refusal of an application made by him for a firearm certificate dated 23rd September 2005 on the grounds that the Police Service believed his father associated with members of a dissident republican organisation namely CIRA. An appeal was lodged to the Secretary of State but by letter dated 4th July 2006 the first named applicant's appeal to the Secretary of State was refused again on the basis that his father associated with a prescribed dissident republican organisation namely the CIRA. Thereafter it is the first applicant's case that the Police Service of Northern Ireland refused to provide any further information as to the basis of the allegation that the applicant's father associated with the CIRA.

[2] Accordingly the first applicant seeks the following relief;

(a) A declaration that the decision of the Secretary of State refusing his appeal was unlawful.

(b) A declaration that the decision of the PSNI refusing to provide information as the basis of the allegation that his father associates with the CIRA is unlawful.

(c) Orders of certiorari quashing the decisions of the Secretary of State and the Police Service of Northern Ireland.

(d) An order compelling the Police Service of Northern Ireland to provide sufficient detailed information as to the basis of the allegation that his father associates with the CIRA.

[3] The original application was dated 2nd day of October 2006, and leave was granted by Weatherup J on 4th October 2006. Notice of motion thereafter was issued on 17th October 2006. On 23rd February 2007 the first named applicant sought to amend the Order 53 statement to include the following additional relief:

> "An Order compelling the Secretary of State to institute a system whereby representations can be made on behalf of the applicant using the information

provided by the Police Service confidentially by special advocates".

[4] The second named applicant sought judicial review of the decision of the Secretary of State of 4th July 2006 refusing the applicant's appeal of the decision of the Chief Constable to revoke the firearms licence which he had held for approximately 22 years. The background had been that by letter dated 23rd September 2005 he had been informed by the PSNI that his application for a Northern Ireland firearms certificate was being processed but that he was no longer considered a suitable person to hold a firearm because it was believed that he associated with a proscribed dissident republican organisation namely CIRA. He was invited to make comment or representations. These were duly made on 3rd October 2005. By letter dated 22nd December 2005 the PSNI replied indicating that the applicant's application to vary his firearm certificate would be refused and that his firearm certificate would be revoked. Notice of revocation dated 5th January 2006 was received on 17th January 2006. The applicant appealed the decision to revoke and as part of the representations made on that appeal provided various references from local people in positions of respect and responsibility indicating he had no association with the CIRA. By way of letter dated 4th July 2006 the Secretary of State refused the appeal on the grounds that he could not be satisfied that the applicant could possess firearms and ammunition without endangering public safety and the peace. In subsequent correspondence both respondents have refused to provide any information as to the basis of the allegation that the applicant associates with the CIRA.

[5] Accordingly the second applicant seeks the following relief:

(a) A declaration that the decision of the Secretary of State dated 4th July 2006 refusing the applicant's appeal of the decision of the Chief Constable to revoke his firearm's certificate is unlawful.

(b) A declaration that the decision of the Police Service of Northern Ireland refusing to provide information as to the basis of the allegation that the applicant associates with the CIRA is unlawful.

(c) Orders of certiorari quashing the decisions of the Secretary of State and of the Police Service of Northern Ireland.

(d) An order compelling the Police Service of Northern Ireland to provide sufficient detailed information as to the basis of the allegation that the applicant associates with CIRA.

[6] As in the case of the first applicant, the application for leave for judicial review was issued on 2nd October 2006. Leave was granted by Weatherup J on 4th October 2006. Notice of motion thereafter was issued on 17th October 2006.

By letter dated 23rd February 2007, application was made to amend the Order 53 statement in similar terms to that of the first applicant.

The grounds upon which the relief is sought

[7] Both applicants put forward similar grounds for the granting of relief and they are as follows:

(a) That the applicants had not been given sufficient information to enable them to make informed representations to the Secretary of State.

(b) Insufficient reasons had been given for the refusal of the appeals by the Secretary of State.

(c) The decisions of the Police Service of Northern Ireland were Wednesbury unreasonable in that they failed to given the applicants sufficient information on which they could make informed representations.

(d) The decisions to refuse yet further information constituted breaches of the applicants' rights to a fair hearing pursuant to Article 6 of the European Convention on Human Rights and Fundamental Freedoms and at common law.

(e) The Police Service of Northern Ireland have failed to give the applicants the gist of the allegations against them.

[8] In the case of Shane Philip Donnelly, there was a further ground namely that the decision to refuse the applicant a firearm certificate on the basis that his father associates with a proscribed dissident republican organisation was irrational.

Firearms (Northern Ireland) Order 2004

[9] The statutory provisions governing the licensing of firearms in Northern Ireland including the grant of certificate, the revocation of the certificate and an appeal against such decisions are contained in the Firearms (Northern Ireland) Order 2004. ("the 2004 Order").

[10] Where relevant, the provisions of the 2004 Order are as follows:

> "5. – (1) If he is satisfied that the applicant can be permitted to have in his possession without danger to public safety or to the peace the firearm or ammunition in respect to which the application is made, the Chief Constable may grant a firearm certificate.

(2) The Chief Constable shall not grant a firearm certificate unless he is satisfied that the applicant –

(a) Is a fit person to be entrusted with a firearm; and
(b) Has a good reason for having in his possession, or for purchasing or acquiring each firearm and any ammunition to which the certificate relates.

. . .

9. – (1) The Chief Constable shall revoke a firearm certificate if he is satisfied that the holder cannot be permitted to have in his possession or to purchase or acquire any firearm or ammunition to which the certificate relates without danger to public safety or to the peace.

(2) The Chief Constable may revoke a firearm certificate if he has reason to believe that the holder –

(a) Is not a fit person to be entrusted with a firearm; or
(b) Does not have a good reason for having in his possession, or for purchasing or acquiring, any firearm or ammunition to which the certificate relates.

. . .

Appeal from the decision of Chief Constable

74. – (1) A person aggrieved by a decision of the Chief Constable under this Order may appeal to the Secretary of State if it is a decision to which this Article applies.

(2) On an appeal under this Article the Secretary of State may make such Order as he thinks fit having regard to the circumstances.

(3) This Article applies to the following decisions of the Chief Constable under this Order –

(a) A refusal to grant or vary any certificate;
(b) A revocation of a certificate;

. . .

Application to amend

[11] I have already set out the circumstances in which the applications to amend were instituted. The applications had been brought before the court for the first time on the first day of the hearing of this application. Mr Lavery, who appeared on behalf of the applicants, frankly admitted that whilst this point could have been considered at an earlier stage, it had only occurred to counsel at a very late stage. He argued that it was in the public interest and in the interests of justice that this matter should now be argued and the leave granted. He urged that in this particular case, where there is a blanket assertion that the basis of the allegation that Philip Donnelly was associating with the CIRA could not be disclosed, it effectively leaves the applicants with nothing to respond to. All that remains for them is to stoutly assert, with the aid of their good character witnesses, that Philip Donnelly is unconnected with this organisation. Counsel submitted that in judicial review there is no method of examining this assertion and to that end the system works unfairly. Hence it was his argument that the manner of making the system fair was to invoke the role of the special advocate.

[12] Mr Maguire QC, who appeared on behalf of the respondent, acknowledging that the court has power to order an amendment, objected to the amendment on the following grounds:

(1) This had come at a very late stage and the first time that he had been aware that it was being raised was the day before this current hearing commenced. No reference to it is made in any of the affidavits or proceedings to date save for the proposed amendment. Accordingly no leave was granted and the threshold test of arguability was therefore only now being advanced. He had therefore had no opportunity to consider with the respondents this amendment.

(2) It was a sweeping amendment that was sought according to Mr Maguire. In terms it amounted to an order compelling the Secretary of State to set up a system of special advocates. It was counsel's submission that this court had no power to make such an order, the remedy in itself amounting to an order of mandamus. He drew attention to the origin of the role of special advocate in England and Wales following the case of Chahal UK 23 EHRR 413. In that case the ECrtHR had held that existing arrangements in the UK for deportation were not Convention compliant because there was no mechanism for the applicant's asylum claim to be considered by a court in cases where

national security was at stake. Thus there was no mechanism for anyone acting in the applicant's interest to challenge the evidence against them. Whilst approving a system employed in the Canadian courts which permitted lawyers appointed to represent an applicant to make representations on his behalf based upon material they, but not the applicant ,had seen concerning his case, nonetheless the court did not recommend that the system be adopted in the UK. Shortly after the case of Chahal, in Tinnelly and others v. UK (1999) 27 EHRR 249 the ECrtHR rejected any attempt to distinguish Chahal in relation to certificates issued by the Secretary of State for Northern Ireland involving cases before the Fair Employment Tribunal in Northern Ireland. Once again however the court did not prescribe the setting up of the role of special advocate. In the event the Special Appeals Commission 1997 has been set up in the wake of the Chahal decision. The special advocate was first introduced in this Act. Since 1997, the use of special advocates in domestic law has increased particularly following the introduction of Part 4 of the Anti Terrorism, Crime and Security Act 2001. Since 2001, the special advocate system has also evolved in several other contexts, both statutory and non statutory – including in the criminal courts, the Parole Board, Planning Appeals and the Proscribed Organisations Appeals Commission. Mr Maguire therefore emphasised with the use of special advocates had derived from an Act of Parliament and there was no instance where a court ever had assumed power to compel the Secretary of State to institute such a system.

(3) Mr Maguire submitted that the grounds upon which this amendment was sought were based on the failure to consider or institute a system whereby confidential information can be viewed and whereby such information can be the subject of representations on behalf of the applicant by special advocates. Such grounds lacked any relationship to this case and in terms amounted to an attempt to institute a system unconnected with the application to quash the current decisions. If leave were to be granted, it would be necessary for the respondents to research to see if it was considered in the context of the current legislation. It was not without significance he said that the Firearms Order had been updated in 2004 and Parliament had not chosen to invoke the use of the special advocate procedure. The issues of the rights of individual set against the public interest would have been well familiar to Parliamentarians and the opportunity could have been availed of if Parliament had considered it was appropriate at the time the 2004 order was introduced.

[13] I have come to the following conclusions on this application to amend:

(1) Clearly the court does have power to amend both the relief sought and the grounds for judicial review. Under Order 53 Rule 34 the court may direct or allow the applicant's statement to be amended on such terms as it thinks fit. Pursuant to section 18(2)(c) of the Judicature (Northern Ireland) Act 1978 the court has power to direct or grant leave for the application to be amended to specify different or additional grounds of relief. Thus the court has power to

grant leave subject to striking out some of the grounds relied on and has power to admit amendment to the application to specify different or additional grounds.

(2) The court ought not to be difficult or rigid provided a sensible endeavour is being made to crystallise in serviceable form the legal issue thrown up by the evidence and the findings. (See Sedley J (as he then was) in R v. Immigration Appeal Tribunal, ex p Syeda Khatoon Shaw (1997) Imm AR 145 at 148). This applies particularly where no injustice will arise from allowing an amendment to include what has emerged as the most serious matter.

(3) On the other hand, the court should not readily permit points to be advanced where the defendant has not had sufficient notice of it and an opportunity to answer it by evidence. It is the duty of the applicant for judicial review to put their case in the original application and in principle the court will be slow to allow an applicant to raise new points in circumstances where the only reason that the point was not raised earlier was because it had not occurred to counsel to do so (See R v. London Borough of Bromley, ex p The Crystal Palace Campaign 21st December 1998 unreported).

(4) It is worth observing that judicial review proceedings are distinguishable from other forms of litigation. It is necessary to obtain the court's leave to begin proceedings. Thereafter those proceedings can only continue in respect of the matters in respect of which leave is granted and are subject to particular time limitations prescribed by the Rules of the Court. It is informative to observe the approach to amendments to judicial review in the Republic of Ireland where in Dermot O'Leary (Applicant) v. The Minister for Transport, Energy and Communications and anr, The Irish Times 24 January 2000 Kelly J provided an illuminating discussion of the issue of amendment. He adopted the approach of Costello J in McCormack v. Garda Complaints Board (1997) 2 1 R 489 at pages 503-504 wherein the then President of the High Court said:-

> "It seems to me that only in exceptional circumstances would liberty to amend a grounding statement be made because the court's jurisdiction to entertain the application is based on and limited by the Order granting leave. But when the facts come to light which could not be known at the time leave was obtained and when the amendment would not prejudice the respondents, then it seems a proper exercise of the court's power of amendment rather than require the new "grounds" be litigated in fresh proceedings."

(5) In the present case the application to amend was presented for the first time when the appropriate time limits had been exceeded, no new facts had come to light since the original application and it gave no opportunity for the defendant to answer it by evidence. I am not satisfied there was good reason for the delay in raising this new matter. Evidence would have been vital in this case given that the respondent might well have wished to canvass specific reasons for the option of special advocate not being considered appropriate or indeed if it had been considered at all. Mr Maguire raised an important point when he indicated that the firearms legislation had been updated in 2004 and Parliament at this stage therefore must have been well aware of the option of special advocate but chose not to institute it in this instance. That context would undoubtedly have been a matter which the respondent would have been entitled to investigate had it been given the opportunity to meet the point now raised. That in itself in my view renders it inequitable that the amendment should be granted at this hearing and in my view would prejudice the respondents.

(5) Even had I granted leave for this amendment to be made, I am persuaded by the argument of Mr Maguire that no basis would have arisen for leave being granted. Counsel could provide me with no authority, and I could conceive of no basis, for the proposition that the court had power to order the Secretary of State to introduce the role of special advocate into the legislation now under consideration. In terms the applicant now sought the institution of a new system. Such a step in my view requires to be the consequence of deliberate legislative action and not judicial activism. It is not a decision that is amenable to judicial powers but rather is one of executive choice between the rights of the individual and the needs of society. I consider this to be a further reason for refusing the application to amend.

Substantive issue – the factual background

(1) On 23rd February 2005 Philip Donnelly applied for a variation of his subsisting firearm certificate to permit him to acquire a further shotgun. On the same date the applicant's son applied to the Chief Constable for the grant of a firearm certificate to permit him to acquire a shotgun for sporting purposes and vermin control.

(2) It is the respondents' case that intelligence information came to light which cast doubt on Philip Donnelly's fitness to hold a firearm certificate. It was believed that he associated with a proscribed dissident republican organisation namely CIRA. That information was disclosed to the Firearms and Explosives Branch of the Police (FEB).

(3) On 23rd September 2005 FEB wrote to the applicants explaining that it was believed that Philip Donnelly associated with a proscribed organisation.

The letters indicated that the police were giving consideration to refusing the applications for a firearms certificate. Representations were invited.

(4) The solicitors on behalf of the applicants responded by way of correspondence denying the allegations and seeking detailed evidenced reasoning behind the decisions.

(5) Thereafter the Chief Constable indicated to the applicants that, in the case of the father the firearms certificate was to be revoked and in the case of the son that the application was to be refused.

(6) The applicants appealed against these decisions in January 2006.

(7) In February 2006 the Northern Ireland Office wrote to the solicitors for the applicants disclosing a summary of the reasoning of the Chief Constable, explaining the appeal procedure and inviting representations. The letter included the following paragraph:

> "The Chief Constable has advised us that he has confidential information that Mr Donnelly' father associates with a proscribed dissident republican organisation, the CIRA."

His father's firearm certificate was revoked for that reason. In the circumstances the Chief Constable refused to grant the first applicant a firearm certificate on the ground that he could not be satisfied that, if Mr Donnelly were permitted to have a firearm and ammunition his father would not gain access to it as they live at the same address and he would have to supervise his father's possession of firearms and ammunition.

(8) On 2nd March 2006 references in relation to Philip Donnelly were supplied.

(9) In the affidavit of Mr Eric Kingsmill, a civil servant in the Police Division of the Northern Ireland Office, which includes Firearms and Explosives Branch, the deponent said at paragraph 2(xii):

> "On 22nd March 2006 a submission to the Minister was prepared concerning the appeal. In it it was indicated that the case hinged on the police information that the applicant's father associated with a proscribed dissident republic organisation, the CIRA. It was recommended to the Minister that he receive a briefing in relation to the matter. It was also raised with the Minister whether further information could be released as if this was his view it would be

appropriate for the applicant and the father to be given a further opportunity to deal with it before a final decision was made.

(xii) On 27th May 2006 I was informed by the Minister that he would wish to have an oral briefing from the police. This was arranged.

(xiii) Following the oral briefing at which the Minister inspected relevant Police documentation and asked questions of the officer presenting the briefing the Minister decided that the applicant's appeal should be refused. He also decided that there could be no greater disclosure to the applicant than that which had already occurred."

At paragraphs 3(i)-(iii) the deponent goes on to relate:

"(i) Throughout the decision making process in respect of the applicant's appeal there was the desire of the respondent to provide to the applicant as much information about the concern based on police intelligence in respect of his father's fitness to hold a firearm certificate as possible. However the respondent was advised by the police that only information which had been disclosed to the applicant and his father in the course of the Chief Constable's decision making process could be disclosed to him. When the substance of the intelligence at issue was made known to the Minister, as recounted herein above he was specifically asked to consider whether greater disclosure could be made to the applicant and his father. The Minister's decision on this was that no further information could be disclosed.

(ii) If the Minister had concluded that there ought to be further disclosure the police would have been pressed to permit same.

(iii) In the area of firearms licensing a central aim of the legislation is to ensure that only fit persons hold firearms and ammunition. This can clearly be discerned from the statutory scheme and it is with this central aim in mind that the administrative process in respect of firearms appeals operates. While

> the Secretary of State will strive to provide a fair decision making process there will be occasions, of which this is one, when the need to pursue the aim aforesaid will require an element of compromise in respect of what information can be disclosed to an applicant. This is especially the case because the Secretary of State must normally turn to the police for assistance in respect of firearms appeals as the police would be the repository of substantial information which will assist in informing the decision making process. Normally the Secretary of State will want to respect the confidentiality of information provided to him by the police where the information is of a sensitive nature and the police judge that the disclosure may harm the public interest. If the demands of disclosure require that full disclosure is to be made without exception and in every case, even where the information concerned is viewed as sensitive, it is likely that the Secretary of State would be forced not to use information of this nature in the context of appeals in order to protect it. The consequence would then be that crucial information would not be available to inform the decision making process and persons who should not obtain firearm ammunition certificates may do so. Such a position would stultify the purpose of the legislation."

(10) A further affidavit was produced on behalf of the respondent from Deborah Crawford, Detective Chief Inspector of the Police Service of Northern Ireland. She is an officer in Crime Operations Department which is the department responsible for the collection, retention and processing of intelligence information. She outlined the system for processing applications for firearm certificates which must occur every 5 years both in relation to applications for firearm certificates and in respect of revocations. She explained the system under which consideration is given, refusals made and appeals permitted. In dealing with the role of the Secretary of State in dealing with such information the deponent stated at paragraph 13:

> "13. In some cases the intelligence information may be so sensitive that only a short description will initially be made available to the Secretary of State but an offer may be made to brief orally the Minister making the decision on the appeal to show him/her the relevant intelligence documents. It will then be for the Minister to decide whether to obtain such a briefing. If he/she does so, the Minister will be

> advised as to the sensitivity of the materials involved from the point of view of disclosure so he can form a view was to whether it is a viable option to seek to disclose more to the applicant. In the course of such briefing the Minister may ask questions of the briefing officer."

The deponent went on to state at paragraph 16(iii):

> "It is evident to me that this was a case where only a very limited disclosure to anyone apart from the Minister could occur for the reasons which have been set out above. Hence the Minister alone received a briefing which occurred on 26th June 2006 and involved him being provided with an oral explanation of the intelligence situation vis a vis the applicant's father. The Minister was also advised that the police concern in respect of disclosure to the appellant's father than that which had occurred here to before and he agreed that no greater disclosure could be made. At the briefing the Minister was able to, and did ask questions".

Conclusions

[14] I have come to the conclusion that the applications of each applicant in this matter must be refused for the following reasons:

1. Doody v. Secretary of State for the Home Department and other (1994) 1 AC 531 contains the classic statement of what fairness requires in the speech of Lord Mustill at p. 560d/g:

(1) Where an Act of Parliament confers an administrative power there is a presumption that it will be exercised in a manner which is fair in all the circumstances.

(2) The standards of fairness are not immutable. They may change with the passage of time, both in general and in their application to decisions of a particular type.

(3) The principles of fairness are not to be applied by rote identically in every situation. What fairness demands is dependent on the context of the decision, and this is to be taken into account in all aspects.

(4) An essential feature of the context is the statute which creates the discretion, as regards both its language and the shape of the legal and administrative system within which the decision is taken.

(5) Fairness will very often require that a person who may be adversely affected by the decision will have an opportunity to make representations on his own behalf either before the decision is taken with a view to producing a favourable result, or after it is taken, with a view to procuring its modification, or both.

(6) Since the person affected usually cannot make worthwhile representations without knowing what factors may weigh against his interests fairness will very often require that he is informed of the gist of the case which he has to answer.

[15] At p. 563 Lord Mustill went on to state:

> "It has frequently been stated that the right to make representations is of little value unless the maker has knowledge in advance of the considerations which, unless affectively challenged, will or may lead to an adverse decision. The opinion of the Privy Council in Kanda v. Government of Malaya [1962] AC 322 at 337 is often quoted to this effect. The proposition of commonsense will in many circumstances require an explicit disclosure of the substance of the matters on which the decision maker intends to proceed. Whether such a duty exists, how far it goes and how it should be performed depend so entirely on the circumstances of the individual case that I prefer not to reason from any general proposition on the subject".

[16] The context of this case is the firearms legislation. The purpose of that legislation is fundamental to any approach to the matter. The central aim of the legislation is clearly to ensure that only fit persons hold firearms and ammunition. The scheme envisages, in the last resort, the Secretary of State providing a decision making process which must be set in the context of the purpose of the legislation. Necessarily the Secretary of State must rely on information from the police who will provide the information which will assist in informing the decision making process. The policy behind the firearms legislation is that the authorities must have full confidence in the holder of firearm certificates. The granting of firearms licences is a function to be carried out with great care and circumspection having regard to the public danger if inappropriate persons have access to firearms or associated with people who might know that that person has a firearm. In an unreported judgment of

Girvan LJ namely Re Liam McDonnell given on 28th September 2005 concerning a not dissimilar case to the present one on the subject of the refusal of a firearms certificate , the judge said at page 3:-

> "It also goes without saying that in looking at the tension between the public interest and the rights of individual, the policy of the legislation is a factor of considerable importance to be taken into account".

[17] With this purposive construction of the legislation in mind Girvan LJ went on to say at page 4:-

> "In general it can be said that in the present case the general statement that the applicant has had associations with terrorist organisations is not sufficient to enable him to address the substance of that adverse fact. However there may be public interest reasons why further particulars cannot be furnished to the applicant. It would be for the police to articulate those public interest considerations in the particular case".

[18] At page 5 the judge further stated:

> "Reading Lord Mustill's principles carefully of course one immediately sees that there may be circumstances in which fairness may in a particular case not even require that the gist of the case may be provided to the person concerned. There may be extreme cases where even the revelation of the gist of the case may be of such a sensitive nature that it may be that it cannot be brought to the attention of the applicant".

[19] I respectfully adopt the approach following by Girvan LJ in McDonnell's case in the instant matter. There may thus be occasions of which the case is one where the public interest must prevail over private interest to some degree. The context of firearms legislation is an area where such issues may arise. The court is bound to recognise that there is no legal right to a firearm and the purposes for which it is sought may vary enormously. The protection of the public is a highly important factor and must assume a primary role in the granting or revocation of certificates. No unreasonable impediment must be created to a proper and informed consideration of the issues in such matters.

[20] I have come to the conclusion that it was appropriate in this case that no further information be disclosed to these applicants other than that which was given to them. Any further order of disclosure, particularly when it had been

considered personally by the Secretary of State, would in my view serve to undermine the purpose of legislation and perhaps seriously impede firearms control in Northern Ireland. In my view the public interest in this matter outweighs the private interest of having further information for this decision other than that which has already been tendered. The gist of the case was provided to the applicants in this instance albeit in diluted form. Whilst it may not have been sufficient to allow the applicants to descend into the particularity that they would have wished in order to answer specific allegations, they were afforded some protection by virtue of the fact that the Minister did have regard to the question of what disclosure was appropriate and did ask appropriate questions before reaching a balanced decision. I have considered the references which have been put before me, but they are not such that they persuade me that in either of the applicants' cases the decision of the Secretary of State was unlawful or that his decision or that of the Police Service of Northern Ireland should be quashed. I find no basis for compelling the PSNI to provide further information as to the basis of the allegation that Philip Donnelly associated with CIRA or that the decision to refuse such information was unlawful.

[21] For all these reasons therefore I dismiss all the applications by both applicants.