

JUSTICE PRESS RELEASE

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“NO CASE FOR SECRET COURTS”: TIME FOR GOVERNMENT TO THINK AGAIN

In a highly critical report released today, 4 April 2012, the influential parliamentary Joint Select Committee on Human Rights (JCHR) concludes that the Government has no case to extend the use of controversial closed material proceedings – secret hearings where the claimant, his lawyers, the public and press are excluded - across any and all civil proceedings.

The Government is currently consulting on its proposals in the Justice and Security Green Paper. JUSTICE has called on the Government to abandon these proposals which would fundamentally undermine the common law right to open and adversarial civil justice.

Echoing concerns expressed by JUSTICE that these proposals are unfair, unnecessary and unjustified, the cross-party JCHR concludes:

- The case for expanding the use of closed material has not been “convincingly made” by the Government and the Committee rejects the extension of generally available secret hearings.
- In any event, the model in the Justice and Security Green Paper is unacceptable.
- If any change can be justified it should be based on the existing system of public interest immunity, which is “sufficiently flexible” to allow courts to determine claims without damaging national security.

In its damning conclusions, the Committee (dominated by the Coalition parties), is critical of the potentially misleading Green Paper:

- In the absence of evidence for change, the Committee condemns the Government’s decision to rely on “vague predictions” and “spurious allegations” of harm to national security;
- The Chair of the Committee describes the clear disparity between the very broad proposals in the Green Paper and the assertion by Ministers that the proposals have a narrow remit as “troubling”; and
- The Green Paper overlooks the potential adverse impact which the proposals could have on the media and on public trust and confidence in both the judicial system and the Government.

Angela Patrick, JUSTICE’s Director of Human Rights Policy said:

The Government has now tested the parliamentary waters and its proposal to expand secret evidence has been condemned as unfair and unjustified. It is

time for the Government to abandon its overreaching and unnecessary Green Paper.

Proceeding in the face of these conclusions would undermine the Coalition's commitment to civil liberties and could damage public confidence in the justice system irreparably.

For further comment, please contact Angela Patrick, JUSTICE's Human Rights Policy Director, on 020 7762 6415 (direct line) or apatrick@justice.org.uk.

Notes for editors

1. The JCHR Report, *Justice and Security Green Paper*, Twenty-fourth Report of Session 2010-12, HL Paper 286/HC 177 will be published at 00.01 Wednesday 4 April 2012. Embargoed copies for the press are available on request from jchr@parliament.uk. JUSTICE's evidence to the JCHR inquiry is available here: <http://www.justice.org.uk/resources.php/315/justice-evidence-to-jchr-inquiry-on-justice-and-security-green-paper>
2. JUSTICE has criticised widely the expanding use of closed material procedures as incompatible with the right to open, adversarial justice enshrined in centuries of common law. The JUSTICE response to the Government Green Paper is available here: <http://www.justice.org.uk/resources.php/314/secret-evidence-in-civil-proceedings-unnecessary-unfair-and-unjustified-justice-responds-to-governme>
3. JUSTICE intervened in the case of *Al-Rawi*, where the Supreme Court held that it did not have the jurisdiction to introduce closed material procedures in civil cases, as the Government had requested. The Green Paper is the Government's response to the decision of the Supreme Court that it did not have the inherent jurisdiction to use closed procedures – like the use of closed procedures and special advocates in SIAC – in ordinary civil claims. The Supreme Court concluded that this would be a fundamental procedural shift which would significantly impact on the principles of open and natural justice. Only Parliament could act to change the civil justice system in this way. JUSTICE's reaction to the Supreme Court's decision in *Al-Rawi* can be found here: <http://www.justice.org.uk/data/files/resources/292/press130711.pdf>

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