



Ministry  
of Justice

# **Report on use of closed material procedure (from 25 June 2016 to 24 June 2017)**

December 2017

## **Ministry of Justice**

### **Report on use of closed material procedure (from 25 June 2016 to 24 June 2017)**

Presented to Parliament pursuant to section 12 of the Justice and Security Act 2013

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## **Report on use of closed material procedure (from 25 June 2016 to 24 June 2017)**

Section 12(1) of the Justice and Security Act 2013 (“the Act”) requires the Secretary of State to prepare (and lay before Parliament) a report on the use of the closed material procedure (CMP) under section 6 of that Act. Under section 12(4) of the Act, the report must be prepared and laid before Parliament as soon as reasonably practicable after the end of the twelve month period to which the report relates.

The report is submitted in the form of the tables below. The first set of tables (“Applications”, “Declarations”, “Revocations”, “Final Judgments”) lists numbers, as prescribed by section 12(2) of the Act. The second set of tables (“Additional Information”) provides the names of the cases referred to in the first set; this additional information is provided at the discretion of the Secretary of State under section 12(3) of the Act.

This is the fourth annual report on this subject and covers the period from 25 June 2016 to 24 June 2017.

## Applications

<b><u>Applications for a declaration that a CMP application may be made in proceedings during the reporting period</u></b>	
Made by the Secretary of State	8
Made by persons other than the Secretary of State	5
<b><u>Applications for a revocation of a declaration made by a court that a CMP application may be made in proceedings during the reporting period</u></b>	
Made by the Secretary of State	0
Made by persons other than the Secretary of State	2 <sup>1</sup>

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<sup>1</sup> The cases were: *XH v. Secretary of State for the Home Department* (judicial review); Family court proceedings (name confidential).

## Declarations

<b><u>Declarations</u> that a CMP application may be made in proceedings during the reporting period</b>	
in response to applications made by the Secretary of State during the reporting period	7
in response to applications made by the Secretary of State during previous reporting periods	4 <sup>2</sup>
in response to applications made by persons other than the Secretary of State during the reporting period	0
in response to applications made by persons other than the Secretary of State during previous reporting periods	2
of the court's own motion	1 <sup>3</sup>

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<sup>2</sup> One case refers to *Eilish Morley v. Ministry of Defence, Peter Keeley and the Police Service of Northern Ireland*. The applications for a CMP declaration in this case were made by the Secretary of State for Defence and the Police Service of Northern Ireland in the previous reporting period. To avoid duplication, this case has only been counted once in this box.

<sup>3</sup> Family court proceedings (name confidential).



## Revocations

<b><u>Revocations</u> of declarations for CMP during the reporting period</b>	
in response to applications made by the Secretary of State during the reporting period	0
in response to applications made by the Secretary of State during previous reporting periods	0
in response to applications made by persons other than the Secretary of State during the reporting period	0
in response to applications made by persons other than the Secretary of State during previous reporting periods	0
of the court's own motion	0

## Final judgments

<b><u>Final judgments which are closed judgments</u></b> – made regarding the outcome of the application for a CMP under section 6 Justice and Security Act 2013 proceedings during the reporting period.	0
<b><u>Final judgments which are NOT closed judgments</u></b> – made regarding the outcome of the application for a CMP under section 6 Justice and Security Act 2013 proceedings during the reporting period.	5
<b><u>Final judgments which are closed judgments</u></b> – made to determine substantive proceedings.	1
<b><u>Final judgments which are NOT closed judgments</u></b> – made to determine substantive proceedings.	3

## Additional information

<b>APPLICATIONS</b>	<b>Application made by the Secretary of State?</b>	<b>Claimant(s)</b>	<b>Defendant(s)</b>
Applications for a <u>declaration</u> that a CMP application may be made in proceedings during the reporting period	Yes	W2	Secretary of State for the Home Department
	Yes	Maftah	Secretary of State for Foreign and Commonwealth Affairs (judicial review)
	Yes	Maftah	Secretary of State for Foreign and Commonwealth Affairs
	Yes	Khaled	Secretary of State for Foreign and Commonwealth Affairs (judicial review)
	Yes	Belhaj	Jack Straw, Sir Mark Allen, Secret Intelligence Service, Security Service, Attorney General, Foreign and Commonwealth Affairs, Home Department
	Yes	HTF; ZMS; XYZ	Secretary of State for Defence <sup>4</sup>
	Yes	Campaign Against Arms Trade	Secretary of State for International Trade (judicial review) <sup>5</sup>
	Yes	Yunus Rahmatullah and Amanatullah Ali	Secretary of State for Defence, Secretary of State for Foreign and Commonwealth Affairs

<sup>4</sup> The claims from HTF, ZMS and XYZ are being heard together and there was a joint CMP application for all three. A CMP declaration was granted for HTF and ZMS, but was refused for XYZ.

<sup>5</sup> The Defendant in this judicial review was originally the Secretary of State for Business, Innovation and Skills. Following the creation of the Department for International Trade, responsibility passed to the Secretary of State for International Trade (under S.I. 2016/992). The section 6 application was supported by a Statement of Reasons signed by HM Principal Secretary of State for Foreign and Commonwealth Affairs.

<b>APPLICATIONS</b>	<b>Application made by the Secretary of State?</b>	<b>Claimant(s)</b>	<b>Defendant(s)</b>
	No <sup>6</sup>	Family court proceedings (name confidential)	Family court proceedings (name confidential)
	No <sup>7</sup>	Gabriel Magee	Chief Constable of the Police Service of Northern Ireland
	No <sup>8</sup>	Ryan Hegarty (as personal representative of Frank Hegarty)	Ministry of Defence, Police Service of Northern Ireland, Northern Ireland Office and Frederick Scappaticci
	No <sup>9</sup>	Elizabeth Monaghan on behalf of Robert Monaghan (deceased)	Chief Constable of the Police Service of Northern Ireland
	No <sup>10</sup>	Mary Heenan	Ministry of Defence, Chief Constable of the Police Service of Northern Ireland, and others

<b>DECLARATIONS<sup>11</sup></b>	<b>Claimant(s)</b>	<b>Defendant(s)</b>
Declarations that a CMP application may be made in proceedings during the reporting period.	W2	Secretary of State for the Home Department
	Maftah	Secretary of State for Foreign and Commonwealth Affairs (judicial review)
	Maftah	Secretary of State for Foreign and Commonwealth Affairs
	Khaled	Secretary of State for Foreign and Commonwealth Affairs (judicial review)

<sup>6</sup> This application was made by the Commissioner of the Police of the Metropolis.

<sup>7</sup> This application was made by the Defendant.

<sup>8</sup> This application was made by the Claimant.

<sup>9</sup> This application was made by the Claimant.

<sup>10</sup> This application was made by the Claimant.

<sup>11</sup> On 27 July 2016, in the case of *XH v. Secretary of State for the Home Department* (judicial review), not listed here because the application for a CMP and the CMP declaration were made under a previous reporting period, the Claimant applied for a revocation of the CMP declaration.

<b>DECLARATIONS<sup>11</sup></b>	<b>Claimant(s)</b>	<b>Defendant(s)</b>
	Kamar Merai	Secretary of State for the Home Department and Commissioner of the Police of the Metropolis (judicial review) <sup>12</sup>
	TH	Secretary of State for the Home Department (judicial review) <sup>13</sup>
	HTF, ZMS	Secretary of State for Defence
	Campaign Against Arms Trade	Secretary of State for International Trade (judicial review)
	Yunus Rahmatullah and Amanatullah Ali	Secretary of State for Defence, Secretary of State for Foreign and Commonwealth Affairs
	Family court proceedings (name confidential) <sup>14</sup>	Family court proceedings (name confidential)
	Eilish Morley	Ministry of Defence, Peter Keeley and Police Service of Northern Ireland <sup>15</sup>
	Michael Gallagher	Secretary of State for Northern Ireland (judicial review) <sup>16</sup>
	Simone Higgins	Chief Constable of the Police Service of Northern Ireland <sup>17</sup>
	Anthony Lee	Chief Constable of the Police Service of Northern Ireland <sup>18</sup>

<b>FINAL JUDGMENTS</b>	<b>Claimant(s)</b>	<b>Defendant(s)</b>
<b>Final judgments which are NOT closed judgments –</b> made regarding the outcome of the application for a CMP under section 6 Justice and Security Act 2013 proceedings during the reporting period.	Maftah	Secretary of State for Foreign and Commonwealth Affairs (judicial review)
	Khaled	Secretary of State for Foreign and Commonwealth Affairs (judicial review)
	HTF; ZMS	Secretary of State for Defence
	XYZ	Secretary of State for Defence
	Yunus Rahmatullah and Amanatullah Ali	Secretary of State for Defence, Secretary of State for Foreign and Commonwealth Affairs

<sup>12</sup> The application for a CMP was made by the Secretary of State for the Home Department during the previous reporting period.

<sup>13</sup> The application for a CMP was made by the Secretary of State for the Home Department during the previous reporting period.

<sup>14</sup> This CMP declaration was made by the court's own motion. On 20 December 2016, the Claimant applied for the revocation of the CMP declaration.

<sup>15</sup> The first defendant, Ministry of Defence, and the third defendant, Police Service of Northern Ireland, made CMP applications during the previous reporting period.

<sup>16</sup> The application for a CMP was made by the Defendant in a previous reporting period.

<sup>17</sup> The application for a CMP was made by the Defendant in the previous reporting period.

<sup>18</sup> The application for a CMP was made by the Defendant in the previous reporting period.

<b>FINAL JUDGMENTS</b>	<b>Claimant(s)</b>	<b>Defendant(s)</b>
<b>Final judgments which are closed judgments – made to determine substantive proceedings.</b>	MR <sup>19</sup>	Secretary of State for the Home Department (judicial review)
<b>Final judgments which are NOT closed judgments – made to determine substantive proceedings.</b>	XH <sup>20</sup>	Secretary of State for the Home Department
	XH <sup>21</sup>	Secretary of State for the Home Department
	MR <sup>22</sup>	Secretary of State for the Home Department (judicial review)

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<sup>19</sup> There was a closed and an open judgment.

<sup>20</sup> Divisional Court judgment.

<sup>21</sup> Court of Appeal judgment.

<sup>22</sup> There was a closed and an open judgment.

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