



An Chartlann Náisiúnta
National Archives

Reference Code: 2021/47/36

Creator(s): Department of Foreign Affairs

Accession Conditions: Open

Copyright: National Archives, Ireland.
May only be reproduced with
the written permission of the
Director of the National
Archives.

*B
D. T. ...
y. l. ...
adj...*

SECURE FAX 702

9 June, 1993

TO: HQ FROM: BELFAST Pages: 2

FOR: Pat Hennessy FROM: David Barry

Public Interest Immunity

Please see attached reply from the British side in response to a recent query we raised about Public Interest Immunity. We expect further details on this issue in the forthcoming briefings on Lethal Force and Inquests.

NOTE TO THE IRISH SIDE

PUBLIC INTEREST IMMUNITY (LOG NO 1732)

Public interest immunity is the doctrine by which the law recognises that the public interest requires that certain documents and information be protected from production in legal proceedings by reason either of their class or their specific contents. Where such immunity attaches, it is the duty (save in exceptional circumstances) of the relevant public official or Minister to assert a claim. This may appropriately be done by certificate, affidavit or through argument by counsel depending on the nature of the material.

It is for the court to determine the validity of any claim. Where a claim is upheld, the court must still consider whether the interests of justice in a particular case require that it be overridden by an order for disclosure. The seminal authority in English law is Conway v Rimmer 1968 AC 910.

Similar doctrines are to be found in most legal systems. It appears that the Irish courts have regarded Conway v Rimmer as of persuasive authority in its own consideration of executive claims of privilege in regard to documents (Murphy v Corporation of Dublin 1972 IR 215).

Statistics are not maintained centrally on cases in which public interest immunity is asserted.