

# Judicial Communications Office

26 June 2026

## **COURT DISMISSES CHALLENGE TO DECISION NOT TO APPOINT SPECIAL ADVOCATES IN OMAGH BOMBING INQUIRY**

### **Summary of Judgment**

Mr Justice McAlinden, sitting today in the High Court in Belfast, dismissed a judicial review against a decision by the Chair of the Omagh Bombing Inquiry not to appoint special advocates to participate in closed hearings.

Michael Gallagher (“the applicant”) sought judicial review of a ruling of Lord Turnbull, Chair of the Omagh Bombing Inquiry (“the Inquiry”), dated 17 November 2025, refusing to appoint or facilitate the appointment of special advocates to participate in closed hearings of the Inquiry. The applicant contended that the Inquiries Act 2005 (“the 2005 Act”) permits the appointment of special advocates and that their participation was required to secure compliance with the procedural obligations arising under article 2 ECHR and with common law principles of fairness.

Counsel on behalf of the Inquiry maintained that it is an independent statutory inquiry established under the 2005 Act, operating as an inquisitorial and investigative process rather than an adversarial one. The Chair had concluded that the statutory scheme neither contemplated nor permitted the appointment of special advocates and that, in any event, their involvement was neither necessary nor desirable.

In paragraphs [9] – [68] of the judgment, the court reviewed the Terms of Reference, the Inquiry’s proposed procedures, the role of core participants, the arrangements for open and closed hearings, the disclosure protocols, and the mechanisms for providing gists of closed material and legal rulings where possible.

The principal issues in the judicial review were:

- whether fairness or the procedural obligations of article 2 ECHR require the appointment of special advocates to represent family core participants during closed hearings; and
- whether the 2005 Act 2005 permits or authorises such appointments, particularly where intercept or other highly sensitive material may be considered.

The court held that the legitimate interests of the family core participants were to ensure that the Inquiry independently investigates and uncovers the truth concerning the Omagh bombing and whether it could have been prevented. Those interests did not extend to presenting an adversarial case or securing a particular outcome.

The court rejected the submission that the absence of special advocates deprived family core participants of meaningful participation or rendered the Inquiry unfair. It concluded that the Inquiry’s procedures, including disclosure arrangements, opportunities to suggest lines of

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inquiry, participation through legal representatives, and the provision of gists of closed material where possible, were sufficient to safeguard their legitimate interests.

The court further held that the concept of “equality of arms” did not arise in the same manner as in adversarial litigation. The Inquiry is not determining competing claims between parties and is prohibited from making determinations of civil or criminal liability.

Having reviewed domestic and Strasbourg authorities, together with the approach adopted in other public inquiries, including the Litvinenko Inquiry, the Manchester Arena Inquiry and the Afghanistan Inquiry, the court concluded that neither common law fairness nor article 2 ECHR requires the appointment of special advocates in the circumstances of this Inquiry.

On statutory construction, the court held that the 2005 Act and the Inquiry Rules 2006 provide a comprehensive code governing inquiry procedure, including the conduct of restricted and closed proceedings. The legislation contains no express provision authorising the appointment of special advocates. The court concluded that Parliament did not intend the appointment of special advocates to form part of the statutory inquiry regime established by the 2005 Act. The omission of any such provision was significant, particularly given the inquisitorial nature of inquiries, the statutory control of questioning and participation, and the legislative emphasis on efficient and cost-effective proceedings.

The court endorsed Lord Turnbull’s conclusion that special advocates were neither required nor authorised within the framework governing the Inquiry and that proposals for their involvement would risk importing adversarial features inconsistent with the statutory model established by Parliament.

The application for judicial review was therefore dismissed. The court upheld Lord Turnbull’s ruling and held that the Inquiry’s procedures are capable of operating fairly and consistently with article 2 ECHR without the appointment of special advocates. The court expressed confidence in the independence of the Chair and the Inquiry legal team and stated that the Inquiry should continue its work without further interruption on the issue of special advocates.

In concluding, the court stated:

“I urge all those involved in this Inquiry to heed the wisdom and experience of [senior counsel on behalf of Mr Rush] and to let this Inquiry get to work and tackle a myriad of issue arising out of its Terms of Reference rather than getting bogged down and paralysed in issues relating to the instruction of special advocates. The wait for the truth in respect of the Omagh atrocity has been far too long. I recognise that special advocates played an important part in the adversarial judicial review which brought about a result where the end of that wait came into sight. I urge all concerned not to let the pursuit of agendas for the development of adversarial Inquiry procedures unnecessarily and fruitlessly prolong that wait. Have confidence in Lord Turnbull and his vastly experienced legal team and work with them in co-operation to uncover that long awaited truth.”

**NOTES TO EDITORS**

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1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available shortly on the Judiciary NI website (<https://www.judiciaryni.uk/>).

ENDS

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