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Local & National

Hain to fight victims ruling

Appeal to challenge verdict that appointment was illegal

Monday, January 15, 2007

By Chris Thornton

Peter Hain turned down the chance for a soft landing today over his illegal appointment of the Victims Commissioner.

The Secretary of State vowed to fight a High Court ruling that says he broke the law by appointing Bertha McDougall to the post as a sop to the DUP.

The case appeared to finish today when Lord Justice Girvan cleared the way for Mrs McDougall to publish her final report on the victims issue.

But the judge indicated that Mrs McDougall should release the report under her own name, rather than as the Interim Victims Commissioner, as a way of " distancing herself from the illegality of the appointments process".

Mr Hain's appeal should allow the Government to bypass that ruling and publish Mrs McDougall's report as the official work of the Victims Commissioner.

However, Mr Hain still has a cover-up investigation hanging over his head.

The Attorney General ordered the review after the judge found there may have been an attempt to pervert the course of justice by trying to hide evidence.

As well as Mr Hain, London barrister Peter Scott QC has been asked to examine the behaviour of Northern Ireland's two most senior civil servants.

In the Belfast High Court today, Lord Justice Girvan maintained that Mr Hain had appointed Mrs McDougall as a political concession to the DUP.

But the judge did not sack her, because he ruled that her appointment as Interim Victims Commissioner had already expired last month.

Mr Hain welcomed that part of the ruling today, but said he was " disappointed by the finding that the appointment was unlawful".

"I will be appealing that in the strongest possible terms," he added.

The move prolongs the already lengthy court case which has drawn two Troubles widows and Mr Hain into a dispute about proper procedures.

Mrs McDougall, whose RUC husband was murdered, had been appointed by Mr Hain in late 2005. But Brenda Downes, whose husband was killed by the RUC, challenged the legality of the appointment.

Last year, Lord Justice Girvan ruled that Mr Hain broke the law and the Ministerial Code in making the appointment. However, the judge considered lengthy arguments about whether Mrs McDougall should be sacked as a result of his first ruling.

Today he decided that she is already out of office as Victims' Commissioner - even though she continues to work and receive her £5,200 monthly salary - because her appointment officially expired last year.

The judge said that even though the report will be published, Mr Hain was not avoiding the "legal consequences flowing from the illegality of his actions" . He said the case will have "a number of important consequences" for future public appointments.

Outside the court, Brenda Downes said there were "two substantial victories in the case".

She said: "The appointment was declared illegal and the Attorney General has instituted an inquiry into

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attempts to make sure this case never came to light."

Mrs McDougall's solicitor John McBurney welcomed "the fact that the court has recognised the importance of Mrs McDougall's work and has taken no steps in this judgment to jeopardise that work".

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