

Core Participants Ruling 3

1. My second Core Participant Ruling was published on 2 November 2015 and is posted on the Inquiry web site together with the first. The Inquiry has since received further applications for designation from the following: Diane Abbott MP, Dame Joan Ruddock, Ceri Gibbons, Paul Chatterton, Jacqueline Sheedy, Mark Organ, Gráinne Gannon, Brandon Silvey and 'Andrea'. I shall consider applications for designation of a recognised legal representative and for an award of costs in separate Rulings.
2. This ruling should be read together with paragraphs 1 – 18 of my revised first core participant ruling of 26 October 2015 for its statement of the principles that I have applied to the present applications, and the warning that this ruling should not be taken to imply any endorsement by the Inquiry of the factual assertions made applicants in support of their applications for designation as core participant. In particular nothing said in this Ruling establishes or can be taken to support the assertion that any person was or was not an undercover police officer.
3. As to the late applications for designation as core participants, I **shall designate**:

Diane Abbott MP, Dame Joan Ruddock, Smash EDO, Ceri Gibbons, Paul Chatterton, Jacqueline Sheedy, and 'Andrea'
4. I will **not designate**:

Mark Organ, Gráinne Gannon and Brandon Spivey
5. On 10 November 2015 Tamsin Allen of Bindmans made an application for the designation of Diane Abbott MP as core participant in the Inquiry. She has been the Member of Parliament for Hackney North and Stoke Newington since 1987 and is currently shadow Secretary of State for International Development. Ms Abbott has been an anti-racism campaigner since the 1970s. In particular, she supported the campaigns for justice mounted by the families of Blair Peach and Stephen Lawrence. On 25 March 2015 The Guardian newspaper published an article in which it was reported that Peter Francis alleged that having infiltrated anti-racism groups as an undercover police officer in the 1990s, he gathered and reported back information about Ms Abbott. She was one of several politicians in respect of whom Special

Branch held files. In my view, Ms Abbott's application has established that she had or may have had a substantial and direct role in an important aspect of the subject matter of the Inquiry and she has a substantial interest in its outcome. Although it is unlikely that Ms Abbott will be the subject of significant criticism I shall exercise my discretion to designate her as a core participant. Ms Abbott, being a serving member of parliament, naturally belongs to **Category [D] Political institutions and politicians** (see paragraph 9 of the first core participant ruling) although she also qualifies in **Category [J] Justice campaigns**.

6. On 15 December 2015 a further application for designation was received from Tamsin Allen of Bindmans acting on behalf of Dame Joan Ruddock. She has been a campaigner for peace, environmental and social justice issues for many years. She entered the House of Commons as Member of Parliament for Lewisham Deptford in 1987. She says that in 1983 a former MI5 agent claimed that Ms Ruddock, as she was then, had been the subject of surveillance and reports gathered by Special Branch. Peter Francis has since claimed that he had seen such reports on Dame Joan. They contained details about the target across a range of background, affiliations and activity. This appears to support the inference that information was or may have been gathered as a result of covert infiltration of some of the campaigning organisations that the target supported. The question arises whether Dame Joan Ruddock has been the subject of undercover surveillance which is within the Inquiry's terms of reference or some other form or forms of surveillance and intelligence gathering which are not. In my view the application satisfies the test that the applicant had or may have had a direct and significant role in part of the subject matter of the Inquiry. She too qualifies in **Category [D] Political institutions and politicians**.
7. Ceri Gibbons made his application by email to the Inquiry on 9 November 2011. On 2 December 2015 the Inquiry received an email from Kellys Solicitors providing information in support of Mr Gibbons' application. EDO MBM Technology Limited was a US owned company located at an industrial estate in Brighton. The company manufactured weapons components. Smash EDO was a group of activists whose purpose was to close down EDO's business in Brighton by conducting protests aimed at the company's premises and staff. Their activities commenced in 2004 after EDO MBM published its award of a contract to produce a smart bomb. Mr Gibbons was a member of Smash EDO and an activist in 2005 and 2006. He applies for designation for himself and for the organisation.

UNDERCOVER POLICING INQUIRY

8. Mr Gibbons explains that as a result of the protesters' activities EDO MBM sought, and on 29 April 2005 obtained, an interim injunction against Smash EDO and several named individuals, not including Mr Gibbons. On 31 May 2005 a large scale protest took place at the company's premises, resulting in service of the injunction on many individuals and arrests, including the arrest of Mr Gibbons. Subsequently, the criminal proceedings were discontinued. However, following the issue of the interim injunction, Mr Gibbons sought in person to be joined in the civil proceedings as a defendant, being a person affected by the injunction as a member of Smash EDO. On 3 June 2005 he served a draft Defence in the action. During a hearing at the High Court in February and March 2006, at which Mr Gibbons was present, Walker J heard the claimant's application to amend the particulars of claim alleging harassment, together with the defendants' cross application for the discharge of the interim injunction on the ground that the claimant's inactivity in response to earlier orders of the Court constituted an abuse of the process. Walker J granted both applications. The interim injunction was discharged. I am not informed of the ultimate conclusion in the proceedings.
9. Mr Gibbons says in his application that in 2005 a person known to him as Marco Jacobs, a person he has since understood, from an article in The Guardian newspaper, was an undercover police officer, permitted his flat to be used by members of the Smash EDO campaign to discuss their strategic response to the civil action brought against them by EDO. Mr Gibbons says that on more than one occasion the person he knew as Marco Jacobs took part in their discussions. Since Sussex Police were known to be "working closely with the company...to support the injunction case" Mr Gibbons asserts that it is reasonable to suppose that at least one aspect of Marco Jacobs' work was to assist a private company to repress public protests outside their gates.
10. Mr Gibbons raises a second issue. One member of Smash EDO was John Catt. Between 2005 and 2012 the Commissioner of the Police for the Metropolis kept records of Mr Catt's attendance at Smash EDO protests. In accordance with their obligations under the Data Protection Act 1998 and a statutory Code of Conduct issued by the Association of Chief Police Officers the record was reviewed from time to time and its references to Mr Catt gradually reduced. However, Mr Catt challenged the right of the police to collect and retain information about him. In the Supreme Court ([2015] UKSC 9; [2015] 1 AC 1065) the sole issue was whether the retention of information amounted to a disproportionate interference with Mr Catt's private life under Article 8(2). The Supreme Court held that it was not. I do not understand that

UNDERCOVER POLICING INQUIRY

Mr Gibbons had any personal interest in the case in the High Court, the Court of Appeal or the Supreme Court. However, he wishes to challenge the characterisation in the police evidence of Smash EDO's campaign as "amongst the most violent in the UK". This is an expression of opinion that may or may not be repeated at the Inquiry but the issues that arose in Mr Catt's case are not matters within its terms of reference.

11. Mr Gibbons has established his membership of and close interest in the protest group Smash EDO. In the course of its protests that group was involved in some violent clashes with the police. I draw no conclusions as to the cause. There is evidence from Mr Gibbons that Smash EDO was infiltrated by an undercover police officer who took part in discussions within the group as to their response to the civil action against them. Mr Gibbons' inference is that the officer was reporting back information that was being used by Sussex Police to support EDO MBM in its civil claim against the protesters. I do not consider that undercover police infiltration of the group would alone permit the conclusion that Mr Gibbons or Smash EDO played or may have played a direct and significant role in part of the subject matter of the Inquiry. Furthermore, at present Mr Gibbons' inference as to the officer's purpose is barely more than speculation. However, I do consider that the officer's alleged involvement in the strategic direction of the group establishes the necessary criteria for designation of both Mr Gibbons and the organisation. Both qualify in **Category [K] Political activists**.
12. Paul Chatterton has been designated a core participant in his capacity as a member of Trapese in **Category [K] Political activists** (see paragraphs 89 and 101, first core participant ruling). He has made a late application to be designated also a core participant in consequence of his role as a defendant with Paul Morrozzo and others in a prosecution following the occupation of the Drax power station site in North Yorkshire and the subsequent quashing of those convictions on appeal (see paragraphs 27, 51 and 55, first core participant ruling). Mr Chatterton is in this respect in exactly the same position as Paul Morrozzo and others in **Category [I] Miscarriage of justice**. For that reason I shall designate him a core participant in this category also.
13. Jacqueline Sheedy has been designated a core participant in her role as a member of Reclaim the Streets and Genetic Engineering Network (see paragraphs 115, 122 and 127, first core participant ruling). She seeks further designation in her capacity as a co-accused in the cases of John Jordan and Shane Collins (**Category [I] Miscarriage of justice**) who were arrested following a Reclaim the Streets bicycle demonstration in 1996. Like Mr Collins

UNDERCOVER POLICING INQUIRY

Ms Sheedy was arrested but the prosecution against her did not proceed (see paragraphs 51, 56 and 57, first core participant ruling). I shall designate Ms Sheedy as a core participant in this capacity also.

14. On 14 December 2015 Harriet Wistrich of Birnberg Peirce and Partners delivered to the Inquiry an application for designation of 'Andrea' as a core participant. Andrea says that, commencing in 2002, she was in a two-year intimate relationship with a man whom she knew by his undercover name. For part of the time they lived together. 'Andrea' says that she discovered only in the summer of 2015 that the name used by her former partner had been false and that he was married with a family. I shall designate 'Andrea' a core participant in **Category [H] Individuals in relationships with undercover officers** because it is my view that she has established that she played or may have played a direct and significant role in part of the subject matter of the Inquiry.
15. On 29 November 2015 the Inquiry received from Mike Schwarz of Bindmans an application for designation made on behalf of Mark Organ. Mr Organ was a member of the Animal Liberation Front Support Group in the early 1990s and its treasurer from 1997. In this capacity Mr Organ believes that he came across undercover police officers infiltrating the group. He considers that he may have been a target of their activity and he questions whether their role may have been more than supportive.
16. Mr Organ has a number of criminal convictions for offences associated with animal rights protests, including in 2005 for burglary at a chicken battery unit in Bedfordshire and, in 2010, for conspiracy to burgle in the Bournemouth area. Mr Organ says that he has learned "recently" that a person active in the movement may have been an undercover police officer. If so, it is possible that the activities of the officer or officers may have a bearing upon the safety of Mr Organ's criminal convictions.
17. I am not able to conclude that Mr Organ played or may have played a direct and significant role in part of the subject matter of the Inquiry. The possibility that an organisation performing, through its members, criminal acts may have been infiltrated by undercover police officers would not alone support designation. I am provided with none of the circumstantial detail from which I could conclude that any individual may have been an undercover officer, that the undercover officer's role was or may have been to organise or direct, or that the undercover officer was in any way implicated in the criminal activities of Mr Organ.

UNDERCOVER POLICING INQUIRY

18. On 2 December 2015 Mike Schwarz of Bindmans submitted an application for designation on behalf of Gráinne Gannon. Ms Gannon is already a core participant in **Category [I] Miscarriage of justice** in her capacity as a defendant in the prosecution arising from the occupation of the Drax power station (paragraph 55 Ruling 21 – 26 October 2015). She now seeks further designation as a participant in the planned occupation of the power station at Ratcliffe-on-Soar. She says that she took part in the planning of the occupation with, amongst others, the undercover officer, Mark Kennedy. She believes that documents were recovered by the police that implicated her in the offence. It seems likely that Ms Gannon can establish that she contributed to the activity of an undercover police officer but I do not consider that she has established that she played or may have played a direct and significant role in part of the subject matter of the Inquiry. It may have been good fortune alone that she was neither arrested nor charged but it was that qualification that established a direct and significant role and caused me to make designations arising from the events at Ratcliffe-on-Soar. I shall exercise my discretion to decline the application. Ms Gannon is, however, a significant witness to events at Ratcliffe-on-Soar and the Inquiry will seek her assistance in this regard.
19. On 9 December 2015 Mike Schwarz of Bindmans made an application to the Inquiry for designation on behalf of Brandon Spivey. In the 1980s and 1990s Mr Spivey was a political activist based in Leeds. He describes himself as living on the fringes of society in a sub-culture of anarchists. He says that he knew 'John Dines' socially, partly from visits to London where he stayed with other activists. He recalls that Dines was describing how to create a false identity using the name of a deceased child. This is evidence relevant to the identity of John Dines because the Operation Herne review has established the use by undercover officers of the names of deceased children to make their covert identities.
20. The events on which Mr Spivey mainly relies took place in 1988 or 1989. He says that Dines arrived at his home seeking refuge because, he claimed, he had planted a bomb at Hendon Police College and was on the run. Mr Spivey says that "a few weeks later" his home was raided by plain-clothed policemen who appeared to be searching for something in particular that they did not find. Mr Spivey was charged with possession of small quantities of class A and class B drugs and he pleaded guilty. He claims that had he known that Dines was an undercover police officer he might have maintained a defence that the drugs left in the common parts of the house were not his and he had no knowledge of them.

UNDERCOVER POLICING INQUIRY

21. I do not consider that Mr Spivey played or may have played a direct and significant role in part of the subject matter of the Inquiry. For present purposes I will accept that the man 'Dines' visited Mr Spivey claiming to be on the run and that there is evidence that 'Dines' may have been an undercover identity. However, Mr Spivey's account that a few weeks elapsed before he was visited by the police and that nothing of consequence was found at his address when they did appears to undermine his suggested inference that there was a connection between the two events. I regret to find Mr Spivey's suggested link between the drugs and Dines and his inability to advance his true defence to the charge of possession wholly unpersuasive. I decline to make the designation sought.
22. Since making designations of core participants and recognised legal representatives in my Rulings of 26 October and 9 November 2015 the Inquiry has received requests from Balwant Singh Reel (**Category [J] Justice campaigns**) and Dominic Iles (**Category [L] Social and environmental activists**) for the termination of their designation as core participants. I shall take this opportunity to terminate their designation as core participants as requested.
23. Finally, on 17 November 2015 the Inquiry was notified by Slater and Gordon, solicitors, on behalf of three core participant police officers in **Category [C] Police officers**, anonymously referred to as N104, N596 and N2154, that they no longer represented the officers in the Inquiry. Their interests were being represented by the Metropolitan Police Service which is itself a core participant in the Inquiry. It follows that it is no longer appropriate that the officers should themselves continue to be designated core participants and I shall now terminate the designations previously made.

16 December 2015

Sir Christopher Pitchford
Chairman, Undercover Policing Inquiry