

Costs of Legal Representation Awards Ruling 3

1. Following my rulings of this and earlier dates as to designation of core participants and recognised legal representatives the Inquiry has received further applications for costs awards in respect of legal representation at the Inquiry from: 'KTC', Mark Kennedy, 'Monica' and Dave Nellist.
2. In considering these applications I have applied the principles set out in the first Costs Awards Ruling dated 16 December 2015, corrected on 22 December 2015, a copy of which can be found on the Inquiry's website. Particular reference should be made to paragraphs 6 – 34 and 48 – 53 of the Ruling.
3. I am satisfied that none of the applicants is in receipt of income or possesses capital that could properly disqualify them for representation at public expense.
4. I conclude that it is fair, reasonable and proportionate and in the public interest to make awards to each of the applicants under section 40(3)(b) of the Inquiries Act 2005, rule 20 and 21 of the Inquiry Rules 2006 and paragraph 2.a of the Secretary of State's Costs Determination.
5. It is necessary to make further public reference only to the application made on behalf Mark Kennedy by Mr Robert Roscoe of Victor Lissack, Roscoe and Coleman. At paragraph 10 of the first Costs of Legal Representation Ruling dated 16 December 2015 (corrected 22 December 2015) I explained that in my view it was contrary to the public interest to make costs awards in favour of present or former police officer core participants who had not first applied to the Police Federation for legal assistance under the terms of its Funding Rules. Mr Kennedy did make an application for legal assistance from the Police Federation.
6. In the meantime, on 27 January 2016, it was necessary for me to issue revised directions as to the timetable towards the hearings of the issues of Undertakings and Restriction Orders. Those directions are posted on the Inquiry's web site and the reasons for them appear in paragraphs 1 – 7 of that document.
7. By letter of 5 February 2016 the Police Federation refused Mr Kennedy's application for legal assistance for reasons that the Inquiry has considered. It would not be appropriate for the Inquiry to comment upon those reasons in this Ruling. However, there have been further developments notified to the Inquiry by letter from Mr Roscoe dated 7 February 2016 that undoubtedly affect the merits of

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Mr Kennedy's application to the Police Federation and entitle him to seek a review, apart from any right of appeal against the decision to which he is entitled. Mr Kennedy has sought a review of the decision and invited the Police Federation to preserve his right of appeal.

8. In the meantime, the timetable towards decisions in respect of Undertakings and Restriction Orders continues to run and Mr Kennedy remains without funding for his legal representation at the Inquiry. These matters are of the first importance to Mr Kennedy as a person significantly and directly involved in the subject matter of the Inquiry. He is likely to be the subject of criticism not only by several non-police core participants and witnesses but also by the Metropolitan Police Service, his former employers. He is the subject of examination in the context of possible miscarriages of justice, sexual relationships in an undercover role and unjustified intrusion. He in turn is likely to place the spotlight on his management as an undercover police officer by more senior officers. Mr Kennedy's position has similarities with that of several other police officers who are also claimed to have been acting undercover. The Inquiry's investigation into the conduct and management of these undercover operations and the behaviour of individual officers has profound implications for the future deployment of officers for such tasks, their selection, training and working conditions, and the police service as a whole. It seems to me essential that Mr Kennedy's representation is funded so that he can participate in the preliminary issues of Undertakings and Restriction Orders while the review of his application for legal assistance is considered by the Police Federation. I have already referred to the waste of time and costs brought about by changes in the Inquiry's timetable towards preliminary hearings caused by delay in the resolution of funding issues. For this reason I have concluded that the public interest requires the Inquiry, as a last resort, to make an interim costs award in favour of Mr Kennedy while the Police Federation review runs its course. I shall request that the Inquiry team brings to the attention of the Police Federation relevant information about the nature of its work so that there is no misunderstanding about the personal and institutional dimensions of Mr Kennedy's participation.
9. The awards whose terms, qualifications and conditions will be notified to the applicants in separate decision letters issued by the Solicitor to the Inquiry are made on the understanding that the recognised legal representatives for each of the non-police applicants will act in the co-operative manner with other non-police core participants referred to in paragraphs 27 and 30 – 34 of the first Costs Awards Ruling.

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10. Recognised legal representatives should consult the revised timetables in respect of Undertakings and Restriction Orders issued by the Chairman on 27 January 2016. The current awards authorise work to be done up to and including 31 March 2016. They will be modified as appropriate to accommodate the extended timetables for decisions on the issues of anonymity and deceased children in due course.

11 February 2016

Sir Christopher Pitchford
Chairman, Undercover Policing Inquiry