

THE UNDERCOVER POLICING INQUIRY

SUBMISSIONS ON BEHALF OF THE NPCC ON THE ISSUE OF RESTRICTION ORDERS

1. These submissions are filed on behalf of the National Police Chief's Council (NPCC) in respect of the legal principles applicable to the making of restriction orders pursuant to s.19 of the Inquiries Act 2005.
2. The NPCC has been provided with the submissions made on behalf of:
 - a) The Metropolitan Police Service
 - b) The Secretary of State for the Home Department.

THE LEGAL PRINCIPLES

3. The NPCC supports and adopts the content of the aforesaid submissions.

CONCLUSIONS

4. The following are well established general principles:
 - a) the public interest in protecting the identity of undercover officers is very strong and may be effectively protected by the appropriate use of NCND;
 - b) the risk of a seemingly innocuous piece of information being part of a 'mosaic effect' leading to the identification of an officer is real;

- c) a cautious approach is therefore justified;
- d) there is a duty on police forces to make application for restriction orders;
- e) the making of restriction orders is fact sensitive and involves a careful balancing exercise;
- f) in conducting the balancing exercise the Inquiry must act in a way which is compatible with Convention rights and where a disclosure would result in a breach of Arts 2, 3 or 8 then this would require a restriction order to be made.
- e) the Inquiries Act 2005 expressly permits the Inquiry to take into account material which is not put into the public domain when reaching its conclusions, the purpose of the Inquiry will not be frustrated by the granting of restriction orders.

Dated this 12th day of February 2016

FIONA BARTON QC