

**IN THE MATTER OF THE INQUIRIES ACT 2005**  
**AND IN THE MATTER OF THE INQUIRY RULES 2006**

**THE UNDERCOVER POLICING INQUIRY**

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**OPEN APPLICATION ON BEHALF OF N14 [JIM  
BOYLING] <sup>1</sup> FOR RESTRICTION ORDERS**

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**Introduction**

1. N14 was an undercover police officer attached to the MPS SDS. N14 applies to the Inquiry Chairman for restriction orders in the terms set out in the attached draft order.
2. Also included in support of his closed application is an objective risk assessment prepared by DI X of the MPS, [REDACTED]. A gist of this risk assessment is attached to this individual open application.
3. This individual open application organises the information contained in both the above documents so as to fit the rubric of the generic open application, and makes limited submissions on the basis of that information, applying the relevant legal test. It is not intended as a skeleton argument.

**Background**

4. The history of N14's deployment is set out at ¶ 1 to ¶ 4 of the risk assessment. N14 spent five years undercover and was tasked to infiltrate various groups including [REDACTED] [REDACTED] [REDACTED] [¶ 4.2 of the risk assessment]. <sup>2</sup>

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<sup>1</sup> This application for restriction orders is made on behalf of Jim Boyling, who does not apply for anonymity. The cipher given to him in the provisional anonymity order of 21 October 2015 is retained in this document and in the supporting evidence and draft order for continuity reasons alone.

<sup>2</sup> The paragraph references in this document are to the paragraph numbers in the supporting material attached to the closed application.

5. N14 is one of two officers who has been officially confirmed by the MPS as being an undercover police officer as a result of the judgment in the case *DIL and others v Commissioner of Police of the Metropolis* [2014] EWHC 2184. N14's cover identity was exposed by activists in 2011 which led to his real identity and photographs of him being widely reported.
6. N14 does not seek an order for anonymity. He does however submit that the restriction orders he applies for are required for the reasons set out in the open and closed applications.
7. To state his position shortly, N14 and his family have already been the subject of extensive scrutiny by activists, anti-UCO campaigners and others. Details of this are contained in the risk assessment at ¶ 5. N14 seeks the restriction orders to limit any further targeting of him and his family, and particularly, to avoid the disclosure of personal information that may lead to his home address being confirmed.
8. The risk assessment clearly sets out at ¶ 6 the current risks, the concerted efforts that are already being made to discover more information about N14 and the particular threat assessment based on the groups and individuals he reported on.
9. Moreover, to allow further personal information to be disclosed would increase the risk that information that is currently not in the public domain would be revealed which might in turn increase the risks to others, including those who provided cover or support to N14 and conceivably, other undercover officers whose deployments have not been discussed in public forums. [REDACTED]  
[REDACTED]

#### **N14's application for restriction orders under section 19(3)(a) of the 2005 Act**

##### *Convention Rights*

10. N14 relies on those parts of the generic open application that set out the basis upon which this individual open application is made. In short, N14 submits that the Chairman

to the Inquiry is required by section 19(3)(a) of the 2005 Act to give effect to N14's ECHR rights.

*Article 2*

11. N14 does not submit that at the time of making this individual open application there is a sufficient, objectively justified basis for finding that there is a real an immediate risk to his life so as to engage Article 2. Nonetheless, it is respectfully submitted that this issue should be kept under careful review.

*Article 3*

12. N14 does not submit that at the time of making this individual open application there is a sufficient, objectively justified basis for finding that there is a real an immediate risk of harm so as to engage Article 3. Nonetheless, it is respectfully submitted that this issue should be kept under careful review.

*Article 8*

13. There cannot realistically be any doubt that Article 8 is engaged in N14's case. Refusal of the restriction orders and the subsequent disclosure of N14's personal details which may lead to discovery / confirmation of his home address would result in further interference with his Article 8 rights beyond that already suffered.
14. The risk of action being directed against N14 likely to interfere with private and family life is assessed in the individual risk assessment as high at ¶2.10 and ¶6.6.
15. Although properly a matter for legal submission in due course, N14 would submit that there is no necessity for the serious and inevitable further interference in his private life – in other words, it is not necessary for N14 to disclose further personal information in public. The “requisite necessity” is not established for the purposes of Article 8.2 in inquisitorial as opposed to adversarial proceedings where the Article 6 rights of others are at issue: see Counsel's Note to the Inquiry ¶ 68 quoting from the judgment of Lord

Justice Girvan in *Re A and others' Application for Judicial Review (Nelson Witnesses)* [2009] NICA 6 at ¶ 33]. N14 would submit that the interference would not be proportionate in circumstances where the material could be redacted or questioning limited to prevent material of this type being elicited.

*Common law/section 17 of the 2005 Act*

16. Additionally, N14 contends that the common law principles of fairness require the Chairman to the Inquiry to grant the application for restriction orders made, in accordance with section 17 and 19(3)(a) of the 2005 Act.
17. To avoid repetition, N14 relies on those parts of his individual open application as set out above, and in the generic open application that are relevant to the Chairman's assessment of whether, as N14 submits, fairness requires that the restriction orders he applies for are made.
18. Additionally, N14 relies on the assurances he was given by supervising officers that his anonymity would be protected. The MPS Risk Assessment Briefing Note refers to the nature of these assurances at ¶ 1.5 to ¶ 1.7; the individual risk assessment for N14 refers to the assurances given to N14 and other SDS officers at ¶ 4.4 to ¶ 4.5 Whilst the MPS have now publicly acknowledged that N10 was an undercover police officer, N10 invites the Chairman to the Inquiry not to ignore the effect of such assurances completely. N14 feels that those assurances should be afforded appropriate recognition in the exercise in deciding where the balance of fairness lies.

**N14's application for restriction orders under section 19(3)(b) of the 2005 Act**

*Risk of harm or damage*

19. In support of this head of application, N14 pleads and relies on those matters and the risk assessment and supporting material set out at ¶ 12 to ¶ 15 of this document.

*Conditions of confidentiality*

20. In support of this head of application, N14 pleads and relies on those matters and supporting material set out at ¶ 18 of this document.

21. Additionally, N14 adopts the submissions made by the MPS in their submissions to the Inquiry on restriction orders set out at ¶ V.32 to ¶ V.39.

### **Conclusion**

22. N14 respectfully submits that should the restriction orders he applies for be refused there will be an increase in the real and immediate risk of harm to him and his family; that there will be further unjustified and disproportionate interference with his private life and the private life of his family. Further, the balance of fairness demands that he be afforded the protections asked for.

**SLATER & GORDON LLP**

19 February 2016