

IN THE MATTER OF AN INQUIRY UNDER THE INQUIRIES ACT 2005

INTO UNDERCOVER POLICING

‘AH’ OPEN ANONYMITY APPLICATION

Application for restriction order – ‘AH’ ('the applicant')

‘AH’ applies for a restriction order.

The applicant seeks anonymity throughout the Inquiry.

The applicant relies on both s19(3)(a) and (b).

The principal provisions the applicant relies on are:

- Article 8 of the ECHR
- Article 10 of the ECHR
- The Inquiry’s common law duty of fairness
- Within s19(4), the following sub-paras - (a), (b), (d)(i)

The applicant refers to the Chair’s ruling on the applicant’s application for core participant status.

The basis of the application is applicant’s fear of adverse treatment by the police or parts of the State were it to be known that the applicant is a core participant in the Inquiry.

The applicant is concerned that were the police and other organisations connected to the security services and State generally aware that the applicant is actively involved in the Inquiry, there may be repercussions against the applicant and at the very least the applicant may be identified as a person of interest to the State and this may be recorded, wrongly, on secret State files.

The applicant concedes that there is nothing in the applicant’s personal circumstances or experiences to say that such repercussions have already fallen upon the applicant or will in the future.

But, in the words of the applicant: *My thinking behind it [is] that it's not at all beyond what I've seen from police forces to be vindictive and persecute people more strongly than are behind efforts to call*

*policing into question - see the heavy policing of FIT watch campaigners
[<http://www.fitwatch.org.uk/>] for example.*

It is submitted that the applicant's position is not an unreasonable one to take. The Inquiry is, after all, concerned with the State (the police in particular) taking extreme, unwarranted, secret and disproportionate steps against campaigners, those whom it sees as dissidents and trouble-makers.

The Catt case (<http://www.bbc.co.uk/news/uk-england-sussex-21783596>) is just one other example of the sort of action the State takes.

The applicant is conscious that [...] anyone carrying out a simple google search could identify the applicant as a core participant in the Inquiry, and learn more about the applicant, were the applicant not to be accorded anonymity. The applicant assumes that as the Inquiry progresses, in particular when evidence starts being given, it may be high on the news agenda and therefore searchable on the internet. The applicant's own case (rightly) attracted considerable publicity at the time of the relevant events. The applicant anticipates, indeed hopes, that it will attract similar publicity as the level of involvement of undercover police officers in the case emerges.

Generally, the applicant is concerned that the applicant's involvement in the planned protest, prosecution and engagement in the Inquiry might be misunderstood by others. They might query why the applicant attracted the close attention of undercover police officer(s) and draw the wrong conclusions about the applicant's engagement with a high level public inquiry. Those inside the police, security services and similar – as well as outsiders, members of the public - might (wrongly) speculate, that the applicant's behaviour (both protest and personal life) was such that it somehow merited the close attention of undercover police activity. They might (wrongly) infer that the applicant is an extremist, in views and actions. They might also (wrongly) infer from the applicant's engagement with the Inquiry that the applicant is overly litigious.

The applicant relies on the following wider points too.

The applicant is a core participant by virtue of being a victim of undercover policing. The Inquiry has recognised, in its costs ruling, that there is a public interest in the applicant being involved. There is no reason, therefore, why the applicant should be prejudiced, or potentially prejudiced, by the applicant's involvement in the Inquiry. Indeed, it would be unfair for the applicant to suffer (potential) prejudice.

On the information currently known or believed by the applicant, there is little or no need for the applicant's identity to be known to other participants or to the public. Given the relatively limited degree to which the applicant appears able to contribute to the Inquiry by giving evidence, the applicant's is not a case where the credibility of an important witness and the Inquiry's ability to uncover the full truth might be hampered by the applicant being accorded anonymity.

The applicant is one of several people who are core participants by virtue of the same events, a planned protest and, ultimately, unsuccessful prosecution. Most if not all of the truth about what happened during that case can be obtained, by the Inquiry, from other core participants who are identified and may be willing and able to play an active and open role in the Inquiry. Indeed the applicant believes that some of those core participants can contribute far more than the applicant can to many aspects of the case.

To the extent that the Inquiry and its pursuit of the truth benefit from the applicant's engagement with the Inquiry – eg in the provision of evidence, statements or testimony – the Inquiry would be diminished were the applicant to be put off engaging further with the Inquiry by losing anonymity.

Other victims / potential witnesses and participants may be put off being actively engaged in the Inquiry should it be known that a non-state non-police core participant's identity had been made public against their wishes.

The applicant may be content to make further representations should the Inquiry have any questions about this application and asks the Inquiry to indicate if there is anything further the Inquiry needs to know before making a decision on this application.

[...].