

SIR CHRISTOPHER PITCHFORD – UNDERCOVER POLICING INQUIRY

APPLICATION FOR ANONYMITY UNDER S.19 INQUIRIES ACT 2005

Name of Core Participant: ARB

Legal Representation Details:

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Restriction Order Sought:

The applicant seeks from the chair a restriction order granting anonymity; and specifically to restrict the publication of the applicant's identity such that the applicant can participate in the inquiry anonymously. A full restriction order is sought without restriction of time so that that the protection lasts indefinitely.

Additional applications may be made during the course of the inquiry relating to the disclosure and publication of materials, redactions and the withholding of material.

Basis for Restriction Orders sought:

The factual background to this application is set out in the applicant's application for Core Participant status, and is therefore not repeated here. In order to assist the Chair in determining this application the statutory grounds for making a restriction order are set out below, and so far as possible, the specific subsections and ground within a subsection is referred to:

s.19(3)(a) Community Obligations

Article 8 and 10 ECHR

The applicant wishes to assist the inquiry and provide evidence of a sensitive and private nature without fear of negative consequences for their family life, or private life including professional life as protected by Article 8 ECHR. There are no Article 8(2) reasons that could be asserted as a necessary or proportionate limitation on this right.

s.17 Inquiries Act The Statutory Duty of Fairness

1. Without anonymity there would be a risk that witnesses who have been duped into sexual relationships by undercover officers would not come forward which would have a consequence of restricting the work of the inquiry.
2. The Applicant has the benefit of an anonymity order granted in 2012 by the High Court (and attached to the applicant's Core Participant Application). The Chair is asked to have regard to this previous grant of anonymity and it is submitted that failure to do so risks a breach of the common and statutory duties of fairness.

3. In criminal proceedings the victim in a case of rape, or of one of the sexual offences listed in the Sexual Offences (Amendment) Act 1992 is entitled to 'anonymity' in the press. Once an allegation of one of the relevant offences has been made, nothing can be published which is likely to lead members of the public to identify the victim. The rationale for this statutory provision in the criminal courts applies equally to the inquiry proceedings. The applicant would expect no less procedural protections in order to participate as a witness in the inquiry.

s.19(3)(a) Rule of Law including the common law duty of fairness and duty of confidentiality

Common Law Duty of Fairness

(The three grounds referred to under the Statutory Duty of Fairness as also relied on here).

Duty of Confidence

The applicant wishes to give evidence which is of a highly sensitive nature both in terms of events that took place, a sexual relationship and the impact on them, including psychological damage. Information that concerns an applicant's medical and/or sexual history would give rise to a reasonable expectation of privacy. It is not accepted there is any public interest in such information being provided without anonymity.

s.19(3)(b) Conducive to the inquiry fulfilling its terms of reference and/or necessary in the public interest with reference in particular to matters mentioned in s.19(4)

The applicant has not identified grounds which are not both in the public interest and conducive to the inquiry fulfilling its terms of reference.

19(4)(b) any risk of harm or damage that could be avoided or reduced by any such restriction:

The applicant has suffered significant psychiatric injuries, if their identity was exposed by the public inquiry this would cause great distress and further damage.

19(4)(d)(i) the extent to which not imposing any particular restriction would be likely to cause delay or to impair the efficiency or effectiveness of the inquiry.

In general terms anonymity is required in order to encourage other victims duped into sexual relationships by undercover police officers to come forward to provide evidence to the inquiry. There is a risk that if anonymity is not granted on applications such as this, then further witnesses and potential core participants may not come for fear public exposure to their family life and negative consequences for their careers. It is in the public interest and important for the effectiveness of the inquiry for as many individuals in the applicant's position to feel able to give evidence to the inquiry.

If the applicant was not granted anonymity they would not participate in the inquiry. The applicant is one of a very small number of Core Participants able to give evidence on the activities of Marc Jacobs and the use of undercover policing, particularly the use of sexual

relationships as a policing tactic in Wales. In addition evidence will be given on the long term consequences and impact of such conduct by undercover police. The applicant's evidence would clearly improve the effectiveness of the inquiry and enable it to better fulfil its terms of reference, as outlined in their application to be a core participant.

The applicant requests advance notice if the inquiry decides not to order anonymity on the basis of this application so as to enable the applicant to consider and submit an application to withdraw from the inquiry before the applicant's name and details are made public.

The inquiry team is invited to contact the applicant's RLR if clarification or further information is required before this application is determined by the Chair.