

IN THE MATTER OF AN INQUIRY UNDER THE INQUIRIES ACT 2005

INTO UNDERCOVER POLICING

'FCA' OPEN ANONYMITY APPLICATION

Application for restriction order – 'FCA' ('the applicant')

FCA 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 5 of the ECHR
- Article 8 of the ECHR
- Article 10 of the ECHR
- Article 11 of the ECHR, association
- Article 1 protocol 1 of the ECHR, property
- Article 2 protocol 1 of the ECHR, education
- The Inquiry's common law duty of fairness
- The duty of confidentiality
- Within s19(4), the following sub-paras - (a), (b), (d)(i)

The basis of the application is the impact of a loss of anonymity on the applicant's academic work, and through that, the applicant's other interests and rights.

As to the facts and assertions relied on, the applicant refers to the Chair's ruling on the applicant's application for core participant status.

The root of the applicant's application for anonymity is the applicant's studies. The applicant is a PhD student and is concerned about the impact on the applicant's ability to continue those studies

were it to be widely known that the applicant is a core participant in the Inquiry. The applicant is concerned about preserving the integrity and confidentiality of the applicant's course-work. This is linked to a separate concern the applicant has – about the applicant's personal safety, reputation, freedom of movement and liberty [...].

[...].

[...].

The publicity that could come with being part of the Pitchford Inquiry, could make proposed participants in the applicant's thesis wary of being part of the applicant's study. They may not understand that the applicant is someone who has suffered injustice because of undercover policing and may even think that the applicant has been some kind of police informer. They may be reticent to engage with the applicant fully or at all were they to be aware that the applicant and anything they may tell the applicant may be subject to scrutiny, or more, by the authorities [...].

The applicant is conscious that [...] anyone carrying out a simple google search could identify the applicant as a core participant, and the reasons for the applicant's role, in the Inquiry were the applicant not 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 very searchable on the internet. The applicant's own case, the Fairford coach case, (rightly) attracted considerable publicity at the time the coach was stopped and as the litigation progressed through the courts. 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 coach trip, the consequent litigation and, above all, the applicant's engagement in the Inquiry might be misunderstood by outsiders. They might query why the applicant attracted the close attention of undercover police officers and draw the wrong conclusions about the applicant's engagement with a high level public inquiry. Outsiders [...] 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 being involved 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 Fairford coach case. 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.

The applicant was the victim of inappropriate undercover policing. Undercover police officers appear to have been involved in and thwarted a proposed protest. Their involvement, or at the very least the full scope of their involvement, in the police operation which thwarted the protest appears to have been withheld from the courts.

The applicant – and 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 was made public against their wishes.

It is implicit in what is said above that the applicant may withdraw from participation in the Inquiry should the applicant's request for continued anonymity be declined or should the detail of the grounds for this application be made known to other participants, the Inquiry or the public. If the Inquiry were minded not to grant anonymity, including in relation to the contents of this application, the applicant would wish to know this in advance of the applicant's name being made public, so that the applicant might consider withdrawing from the Inquiry in the hope that this would prevent the applicant's name and personal details being made public at all. The applicant is grateful, in this respect, for the Inquiry's indications in its undated letter to the applicant's solicitors, received on 4th March 2016.

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.