

IN THE UNDERCOVER POLICING INQUIRY

SUBMISSIONS ON THE PRINCIPLES APPLICABLE TO DISCLOSURE OF DECEASED CHILDREN'S IDENTITIES SERVED ON BEHALF OF THE NATIONAL CRIME AGENCY

1. The NCA adopts the submissions made by the MPS at paragraphs 5 to 17 of its skeleton argument regarding what is said to be the Inquiry's `free-standing obligation to provide information` arising under Article 8 ECHR.
2. Even if an individual is able to establish an entitlement under Article 8 to obtain information that is, or may be, held by the Inquiry (and, as all accept, this will depend on considerations of fairness and proportionality arising in the particular case), it does not necessarily follow that the Inquiry is bound to deal with the matter, and/or to provide the information, particularly if the issue in question is not one that it was otherwise intending to explore within its terms of reference. That is because any obligation to provide information under Article 8 is an obligation on the state generally, and not an obligation on the Inquiry in particular.
3. This issue is academic for present purposes, because the Inquiry intends to investigate the question of the use of dead children's identities in building legends comprehensively. It may, however, be of significance in due course in relation to future requests for disclosure that are made of the Inquiry.

ANDREW O'CONNOR QC

Temple Garden Chambers
Temple, London.

17 June 2016