

## IN THE UNDERCOVER POLICING INQUIRY

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### FURTHER SUBMISSIONS ON UNDERTAKINGS ON BEHALF OF PETER FRANCIS

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1. These submissions are made in response to the Chairman’s invitation to current and former police officers to provide further position statements on the question of undertakings since there has been a change of circumstances, “namely the real possibility that the law may in future allow for disciplinary proceedings to be commenced against former police officers who retired years before the current Inquiry was announced and before any complaint of misconduct was made” (Undertaking: Further Directions, 8 June 2016, para 11).
2. As the Chairman has noted, Peter Francis has already argued (at a time when there was no risk to *former* police officers of disciplinary proceedings) that an undertaking should be sought from the relevant police disciplinary bodies, to encourage frank and open responses from serving police officers to requests from the Inquiry for information and evidence. This request was refused. The Chairman concluded there was no need for such a blanket undertaking at this stage. His decision was based in large part on the fact that no other police officer, serving or former, had sought such an undertaking (Undertakings: ‘Minded to’ note, 3 March 2016, paras 13 – 19).
3. In our submission, given the Chairman has ruled that “it is in the public interest that evidence of wrongdoing by police officers should be disclosed to the Inquiry“, that “it is a commonplace that witnesses are more likely to be frank and honest with their inquisitor if there will be no adverse consequences to them arising from their evidence, such as the use of their evidence in a criminal prosecution or disciplinary proceedings against them” (Undertakings: Ruling 1, 26 May 2016, paras 3 and 4), and given that former officers including Mark Kennedy have potentially vital evidence to give, a blanket undertaking is now necessary.

4. The MPS position (in its note on undertakings) was that they wished to retain the right to discipline serving police officers and presumably this position will now extend to retired officers to the extent that the law allows.
  
5. The undertaking sought (from the MPS, or any other police force, or the IPCC, if relevant) is in similar terms to the one the Chairman has already agreed to seek from the Attorney-General – namely, *“It is undertaken that, in respect of any person who provides evidence or produces a document, information or thing to the Inquiry, no evidence he or she may give to the Inquiry, whether orally or by written statement, nor any written statement made preparatory to giving evidence, nor any document, thing or information produced by that person to the Inquiry:*
  - (i) will be used against him or her in any disciplinary proceedings (for misconduct, inefficiency or ineffectiveness); or*
  - ii) will be used when deciding whether to bring such proceedings”.*

Ben Emmerson QC

Maya Sikand

21 June 2016