

Statement made on behalf of:

The Commissioner of Police of the Metropolis

Witness:

Neil Hutchison

Statement No:

Exhibits Referred to:

NH/160609/1, NH/160609/2, NH/160609/3,  
NH/160609/4, NH/160609/5, NH/160609/6,  
NH/160609/7

Date Statement Made:

9<sup>th</sup> June 2016

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**IN THE MATTER OF: PUBLIC INQUIRY INTO UNDERCOVER POLICING**

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**Witness:** Neil Hutchison

**Occupation:** Police Officer

**Address:** c/o Directorate of Legal Services, 10 Lamb's Conduit Street,  
London WC1N 3NR

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**I believe the facts stated in this witness statement are true**

Signed.....

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**Introduction**

1. I am a Detective Superintendent in the Metropolitan Police Service, currently Police Team Senior Officer for the Assistant Commissioner Directorate of Professionalism's Public Inquiry Team ("AC-PIT"). My line manager is Deputy Assistant Commissioner Fiona Taylor who is responsible for the Directorate of Professional Standards ("DPS") in the Metropolitan Police Service ("MPS").
2. I make this statement in response to the Undercover Policing Inquiry's ("UCPI") Rule 9 request 10(a) (referred to as "Rule 9 (10)(a)") to the MPS dated 21st April 2016 (the content of which is reproduced in full at exhibit NH/160609/1 to this statement).

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3. This statement covers two areas:
- a. Whether any written authorisations have been granted to delete material in accordance with the first, second, or fifth bullet point of paragraph 44 of my witness statement dated 29 January 2016 (and further details if so); and
  - b. Steps taken by the MPS to verify there are no conflicts of interest (including, but not limited to, former service as an undercover officer) by any person in seven specified roles.
4. In preparing this statement, I have had regard to the MPS's commitment to co-operate fully with the UCPI and to take all reasonably practicable steps to preserve, retain and disclose all relevant documents and information, reflected in the draft disclosure protocol (relevant sections of which are at exhibit NH/160609/2).
5. I have outlined my current role and experience in my witness statement in response to the eighth rule 9 request to the MPS, which I believe qualifies me to provide this current statement and is not repeated here.
6. The remainder of this witness statement is structured as follows:
- **Section A:** Written authorisations permitting deletion of material
    - **A(i):** SO15 authorisations
    - **A(ii):** SC&O35 authorisations
  - **Section B:** Steps taken to verify that there are no conflicts of interest
    - **B(i):** general factors impacting on conflicts of interest
    - **B(ii):** specific steps taken to date to ensure no conflict of interest in relation to the UCPI for each of the seven roles in the Rule 9 (10)(a) sub-paragraph (b)
    - **B(iii):** further proposed steps to ensure no conflict of interest in relation to the UCPI
    - **B(iv):** further possible steps that may be taken, and current consideration of these steps
    - **B(v):** proposal for review of this issue

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## Section A: Written authorisations permitting deletion of material

7. Rule 9 (10)(a) relates to the following three bullet points of my statement dated 29 January 2016:

- *"May 2014 – SO15 circulate policy instruction in relation to upcoming Inquiry into undercover policing that 'No member of this Command or Digital Policing, should delete from any SO15 information system any registered files, records or electronic information of possible relevance to these matters (paper, electronic or other) without the authority of Commander SO15' and that;*
- *No member of this Command or Digital Policing, should delete from any corporate system any SO15/ SO13/ SO12 related material of possible relevance to these matters from any other information system, any registered files, records or information (paper, electronic or other) without the authority of Commander SO15 (D751).*
- *May 2015 – SC&O35 circulate BOCU wide instruction that no material relevant to undercover deployment is to be destroyed without written authorisation of the BOCU Commander SCO35."*

### **A(i): Commander SO15 authorisations**

8. The identities and dates of service of Commander SO15 over the relevant period are, to the best of my knowledge, as follows:

| <b>Commander SO15</b> | <b>Dates in post</b>               |
|-----------------------|------------------------------------|
| Commander Ball        | 10 March 2014 – 1 December 2014    |
| Commander Walton      | 1 December 2014 – 26 December 2016 |
| Commander Haydon      | 26 December 2015 - present         |

9. I have been informed by Commander Ball (who issued the instruction at the first bullet point repeated at paragraph 7 above) that he received no requests to destroy or delete material of possible relevance nor did he provide any authority to do so. He has informed me that initial decision making in relation whether any material might be covered by his instruction would have been initially routed to the Head of Compliance and Assurance at SO15 on a day to day basis.
10. I have not spoken to Commander Walton who has now retired, but I understand that any request during his time in post would also have been

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routed via the Head of Compliance and Assurance. The Head of Compliance and Assurance has confirmed that this would be the normal chain of command from any SO15 unit making such a request. In the event of a request being made directly to the Commander SO15 it would be referred back to the Head of Compliance and Assurance to make an assessment of relevance and suitability for retention. Only if the assessment determined that the material was both potentially relevant and nevertheless suitable to be destroyed would the Commander be requested to give authority to do so. No such circumstance has yet arisen.

11. I have contacted the Head of Compliance and Assurance during the periods of Commanders Ball, Walton and Haydon and he has informed me that to his knowledge no authority has been granted by any of these Commanders to destroy potentially relevant material since the Command instruction in May 2014. The issues in relation to MPS Information management systems that I have previously described in my Rule 9(8) statement mean that there is no available audit process to determine if material potentially relevant to the subject of undercover policing has been destroyed. Should information come to light to suggest material has been destroyed it may be possible to conduct case by case investigation and audit depending on the nature of the information and how it was held. For example Holmes can be interrogated to ascertain if specific documents have been accessed and deleted but it would be unmanageable and disproportionate to attempt to audit general deletion of material from SO15 Holmes accounts.
12. Commander Haydon has positively confirmed to me that he has not received any request to delete potentially relevant material and has therefore not granted any authorisations.
13. There is one type of material exempt from the SO15 Command instruction: material that must be destroyed under Part 1 of the Regulation of Investigatory Powers Act 2000 ("RIPA") and the relevant Code of Practice. If such material exists, it would have to be dealt with in accordance with this legislation.
14. I have myself on occasions been requested to advise on whether material should or should not be destroyed as part of regular retention, review and

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destruction ("RRD") procedures or whether it should be referred to the Head of Compliance and Assurance SO15 or Commander SO15 for authorisation of deletion under the May 2014 instruction. The reason why I was asked to advise on this is because of my knowledge of the subject matter of the UCPI (and as a result, what may be considered to be relevant) and my role in ensuring full disclosure to the UCPI.

15. On three of these occasions, the material was not of any potential relevance to the UCPI (either because it contained no information of relevance to the UCPI or any information of potential relevance was a duplicate of material already retained in other locations) and so I confirmed that the May 2014 instruction would not require retention of the material.
16. On other occasions I have requested the material be retained because it is of potential relevance or because it is unknown whether the material is of potential relevance (for example, retaining backup tapes of SO15 intelligence or legacy media held by Digital Policing who provide IT systems and support to the MPS). As these decisions were to retain the information, they were not referred to Commander SO15.

***A(ii): Commander SC&O35 authorisations***

17. The member of staff at SC&O35 who has responsibility for managing records relating to undercover deployments is a Band C Support Manager. He has informed me that to their knowledge no material of potential relevance to the UCPI has been destroyed/deleted and no authorisations under the fifth bullet point of paragraph 44 my statement dated 29 January 2016 (third bullet point at paragraph 7 of this witness statement) have been issued.
18. It has not yet been possible to complete a catalogue and audit of paper operational files against INFOS records to identify if any files are missing. SC&O35 plan to complete this record and audit operational files over the next two months. As part of this process a catalogue of potentially relevant miscellaneous administrative files will be created. AC-PIT staff will be directly engaged in this process to ensure relevant material is retained and catalogued.

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## **Section B: Steps taken to verify that there are no conflicts of interest**

### ***B(i): general factors impacting on conflicts of interest***

19. There are a number of factors that are aimed at ensuring high standards of conduct from police officers and staff. These have the effect of discouraging conflicts of interest from arising; and, if a conflict does arise, discouraging damaging conduct by the officer as well as helping to bring such conflict or conduct to light. These factors are set out in brief with supporting documents exhibited.
20. In handling material of a sensitive nature, MPS staff and officers are subject to both MPS and national security vetting procedures as well as the document handling requirements under the government protective marking scheme. A summary of MPS management vetting ("MV"), national security vetting security check ("SC") and developed vetting ("DV") is attached at exhibit NH/160609/3.
21. All police officers make a pledge when first attested as a Constable. This includes affirming that they will serve with fairness, integrity, diligence and impartiality. The full terms are at exhibit NH/160609/4.
22. The Police Code of Ethics ("the Code"), issued under s.39A(5) Police Act 1996, sets out principles and standards of professional behaviour that apply to all members of the policing profession in England and Wales. Its statutory remit is to chief officers in the discharge of their functions; however it extends beyond this scope (see paragraph 1.3.1). The Code's nine policing principles are accountability; integrity, openness, fairness, leadership, respect, honesty, objectivity and selflessness. Paragraph 1.14 states that the Code,  
*"has a preventive role. It requires everyone in policing to prevent unprofessional conduct by questioning behaviour which falls below expected standards. Additionally, it supports reporting or taking action against such behaviour."*
23. The Code also sets out ten standards of professional behaviour, which originate from the Police (Conduct) Regulations 2012 (for police officers) and the Police Staff Council Joint Circular 54 (for police staff). Standards relevant to document retention and conflict of interest are set out at exhibit

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NH/160609/5 and include standard 1: honesty and integrity; standard 9: conduct (avoid any activities that may bring the police service into disrepute and damage the relationship of trust and confidence between the police and the public); and standard 10: challenging and reporting improper behaviour.

24. The MPS values of courage, compassion, professionalism and integrity are intended to guide the actions of police officers and staff. These values and the Code as set out above recognise that it is important not only to act with integrity and honesty but also to challenge wrongdoing.
25. The Police Conduct Regulations 2012 ("the 2012 Regulations") place a statutory obligation on the Commissioner to investigate allegations of misconduct or gross misconduct; and the power to take appropriate action in response, following investigation.
26. In addition to the 2012 Regulations, Home Office guidance on police officer misconduct sets out guidance on the standards of professional conduct set out at Schedule 2 of the 2012 Regulations. Guidance relevant to the issues of document retention and conflict of interest are set out at exhibit NH/160609/6.
27. The MPS has a declarable associations standard operating procedure that requires MPS officers and staff to register personal associations with individuals, groups or organisations that might compromise the officer or member of staff or the MPS, or risks doing so in the future. Officers and staff are, under the procedure, expected to report an association that might pose a risk to the reputation of the MPS, a risk to themselves or a colleague; and must always notify an association with a person whom they know or suspect of having been dismissed or required to resign from a police service. Staff and officers are required to complete a declarable associations form as part of their end of year personal development reviews. The process to be applied when an association is declared is attached as exhibit NH/160609/7.
28. Furthermore, as holders of public office, police officers are liable to committing the criminal offence of misconduct in a public office when exercising public powers. Wilful destruction of material potentially relevant to the UCPI, particularly in light of the communications set out in my statement

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in response to the UCPI's eighth rule 9 request to the MPS, clearly risks committing this offence.

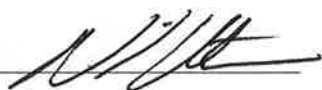
29. In relation to MPS staff (that is, individuals who are not police officers but are employed by the MPS), the MPS DPS Misconduct and Hearing Unit ("MHU") is responsible for police staff discipline. A police staff discipline standard operating procedure exists to maintain acceptable standards of conduct amongst MPS staff and provide a fair and effective method for managers dealing with alleged breaches of these standards. The process follows the stages recommended by the Advisory, Conciliation and Arbitration Service.
30. I acknowledge that these factors alone are unlikely to prevent all conflicts of interest from arising, which has led to the further steps set out below.

***B(ii): specific steps taken to date to ensure no conflicts of interest in relation to the UCPI for each of the seven roles in the Rule 9 (10)(a) sub-paragraph (b)***

1. A member of AC-PIT staff with any role in relation to this Inquiry

31. The AC-PIT is the unit with overall responsibility for MPS participation in the UCPI. It is a new unit created in September 2015, sitting within the Directorate of Professionalism and its officers and staff were drawn from a range of units within the MPS. In relation to assurance that there are no conflicts of interest held by AC-PIT members, the following steps have been taken:
- a. All members of AC-PIT are required to be vetted to MPS MV and national security vetting SC standard. Any team members who have not yet been cleared to this level are in the process of applying to obtain such vetting.
  - b. All members of AC-PIT have signed a confidentiality agreement to prevent inappropriate disclosure of the sensitive material they will view in the course of their duties.

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- c. All members of AC-PIT are briefed verbally about their requirements in relation to disclosure to the UCPI, emphasising the consequences of section 35 of the Inquiries Act 2005.
- d. No member of AC-PIT has been trained or deployed as an undercover officer.
- e. Access by members of AC-PIT to the AC-PIT Home Office Large Major Enquiry System ("Holmes") is granted by the AC-PIT Holmes system office manager. All AC-PIT members with access to its Holmes account have completed a security operating procedures user declaration which includes an instruction that, *"Users must not draw down, export, copy or otherwise remove information from the Secure HOLMES network or application except in strict accordance with their business need"* (CT Holmes User declaration RMADS part 3 version 1 para 1.7.1).

32. In addition, the following systemic, procedural and security steps have been taken in relation to the work of AC-PIT:

- a. Officers' tasks relating to UCPI disclosure are recorded as actions, with search parameters and instructions recorded on the AC-PIT Holmes case management system. This provides a recorded and auditable system for tasks and actions ascribed to officers.
- b. All material identified as relevant to a Rule 9 request or decision to provide voluntary disclosure is copied onto the AC-PIT Holmes account (or, in relation the first rule 9 request to the MPS, the MPS Relativity account). This provides a record of the actions assigned to individuals and the material recovered in response. Some rule 9 requests require AC-PIT officers to decide whether a document is relevant, which is inevitably subjective in part. As AC-PIT lead I direct officers to apply an extremely broad relevancy test, if there is any question as to relevancy the material will be seized and provided. From the other measures detailed here, the nature of the request and response provided is clearly recorded and allows me and the AC-PIT

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Detective Inspectors to see if issues in relation to relevance decisions are arising.

- c. Use of the Holmes system for AC-PIT's work provides an auditable log of whether a document has been opened by a person using a particular log-in.
- d. The ability to delete records from the AC-PIT Holmes account is limited to those members of AC-PIT with an operational need for this ability. At present, nine officers and staff have the ability to delete material from the Holmes account, which is necessary for ensuring the Holmes account is operated properly. Holmes automatically maintains an auditable record of system use. This can be used to show the user, terminal, date and time that a particular document or entry was accessed and could be used to identify if a document had been deleted
- e. No AC-PIT user identification has deletion rights to any material on the AC-PIT Relativity account. The MPS is using a vetted, external provider to upload material in relation to the first rule 9 request to the MPS onto Relativity.

2. A member of MPS Directorate of Legal Services with any role in relation to this Inquiry

- 33. The MPS is utilising its Directorate of Legal Services ("DLS") staff for legal services in relation to the UCPI. The DLS team assigned to working on the UCPI currently consists of three solicitors employed full time, one legal executive working part time, two legal clerks working full time and one half of a senior legal secretary's working hours. In addition, two full time Detective Constables from AC-PIT are attached to the DLS team. There is also a number of Counsel instructed by the MPS on the UCPI.
- 34. In relation to the MPS individuals noted above, the following steps are in place:

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- a. The solicitors are qualified solicitors, subject to Law Society regulations and police staff discipline procedures. Each of the solicitors is vetted to at least MV and SC level, with two holding DV vetting status.
  - b. The non-solicitor staff noted above are vetted to SC level or are in the process of obtaining such vetting and are subject to police staff discipline procedures.
35. In addition, the following procedural factors impact on the potential for conflicts of interest arising or conduct detrimental to the work of the UCPI:
- a. UCPI requests for disclosure are analysed and recorded in a schedule by MPS DLS that is passed to AC-PIT. The material recovered in response is recorded on the AC-PIT Holmes system, providing a record of the request and resulting material.
  - b. If MPS DLS locates relevant material for disclosure, it is passed to AC-PIT for recording on its Holmes account prior to disclosure. This ensures the record of material for disclosure is complete.

3. Any person with access to material secured by Operation Herne's Holmes and Altia databases or exhibit storage systems (whether or not that person would thereby be in a position to amend or delete any part of Operation Herne's records)

36. Operation Herne is an MPS investigation but is independently led by Chief Constable Creedon who is chief constable of Derbyshire. The Senior Investigating Officer ("SIO") of Operation Herne is not an MPS officer. I myself do not have access to Operation Herne material such as the SIO decision log. The following description is based on information supplied to me by the Deputy SIO at Operation Herne.
37. I understand that only members of the Operation Herne team and the AC-PIT team have access to Operation Herne's Holmes account or the Altia database or exhibit storage systems. Supervised access is granted to the UCPI Inquiry team as required.

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38. I am aware that the following controls are in place in relation to Operation Herne staff:

- a. All Operation Herne officers and staff are vetted to at least MV and SC level and a number are vetted to DV level.
- b. Operation Herne has a policy of not employing officers or staff who have previously worked on the SDS or NPOIU units.
- c. All Operation Herne staff are required to declare any conflicts of interest or previously unidentified associations with officers or staff linked to SDS or NPOIU. Any such notification is recorded on the Operation Herne Holmes account. I understand this measure and that at paragraph 38(b) above is due to the particular subject matter of the Operation Herne investigation. I am aware of one occasion on which Operation Herne declined to employ an officer based on such an association.
- d. All officers and staff on Operation Herne are required to sign a confidentiality agreement to prevent inappropriate disclosure of the sensitive material they will view in the course of their duties.

39. In addition, the following systemic, procedural and security steps have been taken:

- a. The Operation Herne Holmes and Altia system access controls and security is the same as that for the AC-PIT Holmes accounts, noted above. In particular, the ability to delete material is restricted to those individuals who have an operational need for this ability. Holmes will record information such as the user identification and time that material is accessed or deleted.
- b. The Operation Herne Holmes and exhibit storage are held in an office with appropriate physical security and access restricted to staff attached to Operation Herne or individuals invited to Operation Herne premises and escorted by a member of the Operation Herne team.

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4. Any person with a position within the General Registry/Record Management System whose role includes making any decision about the destruction of records or who has the practical ability to do so, or who has the authority or practical ability to amend, delete or prevent the creation of records or access to files

40. I understand that the Records Management team has a role in systematic review of files registered to the General Registry ("GR") as well as a role in facilitating provision of registered files to MPS officers who have requested them. Decisions about destruction of files are taken by the extremely limited number of staff employed at Records Management on the GR.

41. The following steps have been taken in relation to the people identified in this role:

a. Only the very small Records Management team at GR are authorised to review and make destruction decisions on GR files. They have been verbally briefed by the head of Records Management to consider whether the GR file could have any relevance to undercover policing, police corruption, child sexual abuse, the Lawrence investigation or MacPherson Inquiry and to retain and flag any such material identified.

b. The same team of GR staff are responsible for supervising delivery of Operation Filesafe (the MPS operation relating to data retention across the MPS estate, covered in detail in my response to the eighth rule 9 request to the MPS). In this role they brief the team of temporary agency and locally assigned staff on the requirement to identify and retain such material when reviewing files in local archives. This reinforces the requirement to retain material potentially relevant to the UCPI to the GR team.

42. A number of registered files have access restrictions, meaning that the file may only be provided to the units or ranks specified in the restrictions. GR is a major operational resource for officers as shown by the fact that on average around 1,300 requests for files are received each month.

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5. Any person with the authority or practical ability to delete material from the INFOS system

43. Access to the Intelligence Network Forcewide System ("INFOS") is limited to a small number of individuals within the MPS, in the SC&O35 unit. This unit deals with amongst the most sensitive areas within the MPS including aspects of covert policing such as use of covert human intelligence sources ("CHIS") and undercover policing.
44. I am informed by the SC&O35 manager with responsibility for use of INFOS that it is only as a result of enquiries to provide a response to the Rule 9(10)(a) that it has been established that records can be deleted from INFOS. The right to make such a deletion is held by members of SC&O35 but this is limited to an extremely small number of people; I am informed by the SC&O35 Support Manager that SC&O35 are not aware of any deletion having been made.
45. The staff at SC&O35 clearly have an involvement with undercover policing. They are vetted to DV or SC level due to the extremely sensitive nature of their duties. I am informed by the manager of SC&O35 that they are unaware of any suspicion of misuse of INFOS over the past 13 years.
46. INFOS has a high level of security appropriate to the sensitivity of information it holds, including: physical security; appropriate access controls; an auditable log of actions taken which can be interrogated by user administrators, including a record of the date, time, user identification and workstation where any deletion of a record had been carried out.
47. In addition, paper files of records stored on INFOS are held in secure storage, with access restricted to the extremely small number of individuals with a requirement to use this archive; the files have a unique reference number and may physically be removed from the storage by staff with access but the record of the file's existence on INFOS could not be deleted except as described above. AC-PIT has commenced work with SC&O35 to catalogue their local archive of paper files relating to undercover operations. This catalogue will be an auditable record of files.

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6. Any person with the authority or practical ability to amend, delete or prevent the creation of records on the IT index system for IMOS

48. The Information Management & Operational Support ("IMOS") is a unit managing sensitive databases and stores of files. Detailed information has been provided to the UCPI on the historical origins and current working of IMOS. There is a small number of officers and staff with access to physical files at IMOS's secure storage. All of these individuals are in SO15, which is the MPS Command with responsibility for counter-terrorism policing, and will regularly deal with sensitive information as part of their regular duties.
49. There is a direction in place that no material held by IMOS will be subject to destruction or deletion while the UCPI is ongoing. This is a suspension of the RRD process. This has been justified as an exception to the Management of Police Information requirement not to hold information once it does not serve a policing purpose on the basis of potential relevance to the UCPI.
50. In relation to individuals in the role identified above, the following steps have been taken:
- a. All IMOS staff and officers are vetted to MV and DV level or are in the process of obtaining such vetting due to the extremely sensitive nature of their regular duties.
  - b. Staff or officers in SO15 with access to the National Special Branch Intelligence System ("NSBIS"), which is the system used to link IMOS paper files to IT based records, are vetted to at least SC level.
51. In addition, only IMOS staff are permitted access to the physical store of files, which has an appropriate level of physical security. Files that are removed can only be done so after requesting the IMOS staff on duty. Out of normal office hours officers on the reserve desk can access IMOS files for urgent operational reasons. There is a paper based booking out system where the officer receiving the material signs for the files.

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7. Any person with the authority or practical ability to amend, delete or prevent the creation of records on the IMS system

52. The IMS system is managed by SC&O35. All system users can create an entry and edit or delete it. Entries are required to be supervised (checked) by a line manager of Inspector rank on the IMS system. Once an entry has been supervised it cannot be separately deleted by any system user. I have been informed by Digital Policing that the only way to delete material from IMS after entries have been supervised would be to delete data in bulk, directly from the server. Only technical support staff from Digital Policing vetted to DV level have server access. I am told that should any such bulk deletion take place it would be clearly apparent as large quantities of data would be missing. I am informed that the IMS system administrator is unaware of any such deletion ever having ever been made and they would require authority from the head of Covert Intelligence before doing so. In relation to those with access to IMS records, the following steps are in place:

- a. Access to IMS is limited to those with an operational requirement to have such access, primarily these are officers involved in the management of CHIS or those with a direct need to access intelligence arising from CHIS. This is a very limited group of officers who tend to have extremely sensitive day-to-day duties;
- b. Staff or officers with access to the IMS are required to be vetted to MV and SC level or above;
- c. Access to the IMS is limited to certain physical locations and using certain access restrictions.

**B(iii): further proposed steps to ensure no conflict of interest in relation to the UCPI**

53. I recognise that the general considerations and steps noted above cannot guarantee that no conflict of interest may arise in relation to the UCPI or that no relevant document may be deleted. The measures noted above do however make it less likely (a) that a person with a conflict of interest will be

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in a position to destroy relevant documents and (b) that such a person, assuming he or she had a conflict of interest, would be willing or able to act to destroy documents; and more likely that any such action would be detected. However, I recognise that it may be possible to do more in this regard.

54. After considering the issue of conflict of interest further, and of the ways in which material of potential relevance to the UCPI may better be protected, the following further steps are now being undertaken by the MPS:
- a. AC-PIT have commenced creation of a list of known undercover operations which could be used to restrict access to relevant files held in GR. This list is at an early stage of development and is a highly sensitive document.
  - b. While the above list is developed the head of Records Management will dip sample requested files to determine if any are potentially relevant to the UCPI.
  - c. In order to implement a level of control over requests for GR files due to the requirement to prevent inappropriate destruction a directive has been issued by the head of Records Management that all requests must be authorised via e-mail by an Inspector rank officer or equivalent band police staff.
  - d. AC-PIT staff will be required to submit a 'conflict of interest' declaration which will include previous contact with staff or officers who worked on SDS or NPOIU prior to their selection to AC-PIT. Previous contact will be defined as social contact or work colleague.
  - e. The head of Records Management has been directed to ensure staff in GR with a responsibility for review of GR files for destruction to be vetted to SC level.
  - f. All members of AC-PIT are to have additional checks on their service history to ensure there is no question mark over their integrity. This will be performed by DPS personnel.

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**B(iv): further possible steps that may be taken, and current consideration of these steps**

55. In deciding to take the steps at section B(iii) above, I have considered the following further possible steps:

- a. To remove any person with previous service as an undercover officer from any role noted in the Rule 9(10)(a) or access to the databases mentioned therein;
- b. Temporarily to suspend any person with previous service as an undercover officer from the roles mentioned in Rule 9(10)(a);
- c. To suspend all access to GR files;
- d. To check in detail each GR file requested prior to provision to release.

56. In relation to these potential steps, I have considered the following points.

- a. Removal from a particular role or suspension from duties is likely to constitute disciplinary action. The Commissioner is only entitled to take disciplinary action following appropriate investigation in accordance with the 2012 Regulations;
- b. The Commissioner owes to MPS staff and officers, in the place of their employer, an obligation of mutual trust and confidence;
- c. Previous service as an undercover officer (or in a particular unit) may represent a potential for a conflict of interest but does not mean, of itself, that such a conflict exists;
- d. The Commissioner does not have the statutory power to suspend an officer unless the 'suspension conditions' in regulation 10(4) of the 2012 Regulations are satisfied;
- e. For at least some of the roles identified in Rule 9(10)(a), the role requires knowledge of undercover operations and such knowledge

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may be best acquired by previous service as an undercover officer or by previous involvement in such operations. Removing individuals with previous service as undercover officers or other involvement in undercover operations has the potential to cause a significant detrimental impact on the operational effectiveness of those units, as well as increasing the risk of missing material and providing an incomplete or inaccurate response to the UCPI's requests;

f. An undercover operation has many different facets, including building an intelligence case for it, authorisation and supervision. There is no clear rational basis for distinguishing those who served as undercover officers as warranting expulsion or suspension from the roles identified in Rule 9 (10)(a) but not extending the same action to individuals who had other roles in undercover work;

g. The large number of files requested per month and the extremely limited number of staff mean that GR could not function properly if it was required to assess each file in detail before provision or suspended release of files during the UCPI. This would impact on operational effectiveness as GR is an important information facility.

57. For the reasons set out above, I have not recommended taking the further steps identified at paragraph 55.

58. Although AC-PIT does not employ staff or officers with previous undercover service (and Operation Herne does not employ individuals with previous SDS or NPOIU service), my belief is that there is a difference between how the factors above apply to how individuals are selected for a new role compared with treatment in an individual's existing role. The AC-PIT and Operation Herne teams have been established for the specific purposes of supporting the UCPI and investigating the operations of specific undercover units respectively. These roles are very different to those identified at numbers 4 – 7 of Rule 9 (10)(a) at sub-paragraph (b). Those units require access to these systems in order to carry out their operational function. I believe I would require substantive grounds before requesting removal of an officer or member of staff from such a role.

Signed:



Date:

9th June 2016

**B9(v): proposal for review of this issue**

59. Given the importance of this issue, I propose to review the steps taken to verify no conflicts exist in the roles identified in Rule 9(10)(a) every six months.

Signed: \_\_\_\_\_



Date: \_\_\_\_\_

9<sup>th</sup> June 2016

Statement made on behalf of:

The Commissioner of Police of the Metropolis

Witness:

Neil Hutchison

Statement No:

2

Exhibits Referred to:

NH/160609/1, NH/160609/2, NH/160609/3,  
NH/160609/4, NH/160609/5, NH/160609/6,  
NH/160609/7

Date Statement Made:

9<sup>th</sup> June 2016

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**IN THE MATTER OF: PUBLIC INQUIRY INTO UNDERCOVER POLICING**

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This is the exhibit marked NH/160609/1 referred to in Neil Hutchison's statement dated 9<sup>th</sup> June 2016

## **Request under Rule 9 – Tenth Request**

### **Background**

1. The Inquiry is aware that the Metropolitan Police holds numerous documents, across a range of archives, databases and other records, which are likely to be of relevance to its investigations.
2. The Inquiry notes, in particular, the observations made at paragraphs 15 of the statement made by Neil Hutchinson dated 29 January 2016 as to the process being followed by the Metropolitan Police in responding to rule 9 requests.
3. The Inquiry further notes the observations made at paragraph 44 of the same statement as to the requirements for authorisations at certain levels for the destruction of some categories of documents.
4. The Inquiry further notes the observations made at paragraph 48 as to the steps being taken to address the risk that individual officers or staff may deliberately seek to destroy or amend parts of the record, and particularly the observations about restricted access to material held by Operation Herne, the General Registry, INFOS, IMOS and the IMS.

### **Rule 9(1) request for witness statement**

5. The Inquiry Panel requests that an appropriate person speaking on behalf of the Metropolitan Police provide a statement to the Inquiry setting out:
  - a. Whether any written authorisations have been granted permitting the deletion of material in accordance with the first, second or fifth bullet point of paragraph 44 of that statement, and if so the details including the basis for any assessment that was made as to the likelihood of relevant information being destroyed.
  - b. What steps if any the Metropolitan Police has taken to verify that there are no conflicts of interest (including, but not limited to, former service as an undercover officer) by any person in the following roles:
    1. A member of AC-PIT staff with any role in relation to this Inquiry

2. A member of MPS Directorate of Legal Services with any role in relation to this Inquiry
3. Any person with access to material secured by Operation Herne's Holmes and Altia databases or exhibit storage systems (whether or not that person would thereby be in a position to amend or delete any part of Operation Herne's records)
4. Any person with a position within the General Registry/Record Management System whose role includes making any decision about the destruction of records or who has the practical ability to do so, or who has the authority or practical ability to amend, delete or prevent the creation of records of access to files.
5. Any person with the authority or practical ability to delete material from the INFOS system.
6. Any person with the authority or practical ability to amend, delete or prevent the creation of records on the IT index system for IMOS.
7. Any person with the authority or practical ability to amend, delete or prevent the creation of records on the IMS system.

Statement made on behalf of:

The Commissioner of Police of the Metropolis

Witness:

Neil Hutchison

Statement No:

2

Exhibits Referred to:

NH/160609/1, NH/160609/2, NH/160609/3,  
NH/160609/4, NH/160609/5, NH/160609/6,  
NH/160609/7

Date Statement Made:

9<sup>th</sup> June 2016

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**IN THE MATTER OF: PUBLIC INQUIRY INTO UNDERCOVER POLICING**

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This is the exhibit marked NH/160609/2 referred to in Neil Hutchison's statement dated 9<sup>th</sup> June 2016



## **Draft Protocol for the Provision of Documents and Other Information to the Inquiry by the Metropolitan Police Service**

### *“Aims*

*5. This protocol is designed to provide a framework for the provision of information by the Metropolitan Police Service that relates to any matter in question at the Inquiry and to ensure:*

*... (e) that all appropriate steps to prevent potentially relevant documents in the possession of the Metropolitan Police Service from being lost or destroyed are taken;*

*...*

### *Preservation of information by MPS*

*7. The Metropolitan Police Service will take all reasonably practicable steps to preserve all information which may be of relevance to the Inquiry. It will keep the Inquiry team informed as to the steps which it takes in order to do so.*

*...*

### *Retention of documents*

*35. The Metropolitan Police Service should ensure that it retains original versions of all documents and physical evidence relevant to the Inquiry and that relevant information is not destroyed.”*

Statement made on behalf of:

The Commissioner of Police of the Metropolis

Witness:

Neil Hutchison

Statement No:

2

Exhibits Referred to:

NH/160609/1, NH/160609/2, NH/160609/3,  
NH/160609/4, NH/160609/5, NH/160609/6,  
NH/160609/7

Date Statement Made:

9<sup>th</sup> June 2016

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**IN THE MATTER OF: PUBLIC INQUIRY INTO UNDERCOVER POLICING**

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This is the exhibit marked NH/160609/3 referred to in Neil Hutchison's statement dated 9<sup>th</sup> June 2016

**Table 1: Police Vetting Levels as defined within ACPO's National Vetting Policy for the Police Community**

| <b>Police Vetting</b>     |                 |   |                 |  |
|---------------------------|-----------------|---|-----------------|--|
| <b>Level</b>              | <b>Category</b> | <b>Relevant to:</b>   | <b>Duration</b> | <b>Key Facts</b>   |
| <b>Recruit Vetting</b>    | Standard        | Police Officers, MSC<br>Police Staff / PCSOs<br>30 Plus Scheme  | 10 years        | This is the standard level of vetting for all MPS employees.<br>Permits unsupervised access to MPS buildings and standard access to IT systems.  |
|                           |                 | Officers retiring and becoming police staff<br>Internal applicants changing employment group or contract<br>Transferees & rejoiners |                 | Permits frequent and uncontrolled access to police assets up to <b>CONFIDENTIAL</b> and <b>occasional access to SECRET</b> .   |
| <b>Management Vetting</b> | Enhanced        | Designated posts  | 7 years         | This is an enhanced level of vetting for staff requiring long term, frequent and uncontrolled access to police assets up to <b>SECRET and TOP SECRET</b> .<br>Or individuals in a position to directly or indirectly cause the same degree of harm.<br>Annual Security Review is required.<br>MV is a pre-requisite to SC and DV enhanced vetting in the MPS.<br>Applicants who choose not to undertake the procedure cannot be considered for appointment to a designated post. |
|                           |                 |   |                 | Permits limited / infrequent access to MPS buildings.<br>Does not entitle the holder to have access any protectively marked assets.  |
| <b>NPPV Level 1</b>       | Basic           | Designated Non Police Personnel posts only with minimum access requirements.  | 1 year          | Permits unsupervised access to MPS buildings.<br>Permits access to police assets up to <b>CONFIDENTIAL</b> , with <b>occasional access to SECRET assets</b> .  |
| <b>NPPV Level 2</b>       | Standard        | Non Police Personnel  | 3 years         | Permits unsupervised access to MPS buildings.<br>Permits access to police assets up to <b>CONFIDENTIAL</b> , with <b>occasional access to SECRET assets</b> .  |
| <b>NPPV Level 3</b>       | Enhanced        | Designated Non Police Personnel posts only requiring enhanced access to MPS Assets.   | 5 years         | Permits unsupervised access to MPS buildings.<br>Permits access to police assets up to <b>Secret</b> , with <b>occasional access to Top Secret assets</b> .  |

**Table 2: National Security Vetting Levels as defined within the National Security Policy Framework.**

| National Security Vetting        |          |   |                               |  |
|----------------------------------|----------|---|-------------------------------|--|
| Level                            | Category | Relevant to:  | Duration                      | Key Facts  |
| CTC<br>(Counter Terrorism Check) | Standard | All direct MPS employees.<br>All staff, including NPP requiring access to designated buildings. | 10 years<br>(3 years for NPP) | Permits regular access up to <b>UK CONFIDENTIAL</b> assets and permits <b>occasional access to UK SECRET assets</b> .<br>Or individuals in a position to directly or indirectly cause the same degree of damage.   |
| SC<br>(Security Check)           | Enhanced | Designated posts  | 7 years<br>(5 years for NPP)  | For posts requiring long-term, frequent and uncontrolled access to <b>UK SECRET</b> assets and / or <b>occasional supervised access to UK TOP SECRET assets</b> . Or individuals in a position to directly or indirectly cause the same degree of damage.<br>MV is a prerequisite to SC in the MPS.<br>Annual Security Review is required. |
| DV<br>(Developed Vetting)        | Enhanced | Designated posts  | 7 years<br>(5 years for NPP)  | For posts requiring frequent and uncontrolled access to <b>UK TOP SECRET</b> assets or <b>require access to UK TOP SECRET codeword material</b> .<br>Or individuals in a position to directly or indirectly cause the same degree of damage.<br>MV is a prerequisite to DV in the MPS.<br>Annual Security review is required.              |

Statement made on behalf of:

The Commissioner of Police of the Metropolis

Witness:

Neil Hutchison

Statement No:

2

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NH/160609/7

Date Statement Made:

9<sup>th</sup> June 2016

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**IN THE MATTER OF: PUBLIC INQUIRY INTO UNDERCOVER POLICING**

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This is the exhibit marked NH/160609/4 referred to in Neil Hutchison's statement dated 9<sup>th</sup> June 2016

Pledge taken by officers when first attested as a police constable

**I, ....., of the Metropolitan Police Service, do solemnly and sincerely declare and affirm that I will well and truly serve the Queen in the office of constable, with fairness, integrity, diligence and impartiality, upholding fundamental human rights and according equal respect to all people; and that I will, to the best of my power, cause the peace to be kept and preserved and prevent all offences against people and property; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law.**

Statement made on behalf of:

The Commissioner of Police of the  
Metropolis

Witness:

Neil Hutchison

Statement No:

2

Exhibits Referred to:

NH/160609/1, NH/160609/2, NH/160609/3,  
NH/160609/4, NH/160609/5, NH/160609/6,  
NH/160609/7

Date Statement Made:

9<sup>th</sup> June 2016

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**IN THE MATTER OF: PUBLIC INQUIRY INTO UNDERCOVER POLICING**

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This is the exhibit marked NH/160609/5 referred to in Neil Hutchison's statement  
dated 9<sup>th</sup> June 2016

## **Extracts from the Police Code of Ethics standards of professional behaviour**

*"Standard 1. Honesty and Integrity (example; do not knowingly make false, misleading or inaccurate oral or written statements in any professional context)...*

*Standard 5. Orders and instructions (example; follow lawful orders, recognising that any decision not to follow an order needs to be objectively and fully justified)...*

*Standard 6. Duties and responsibilities (example; ensure that accurate records of your actions are kept – both as good practice and as required by legislation, policies and procedures)...*

*Standard 7. Confidentiality (example; access police-held information for a legitimate or authorised policing purpose only)...*

*Standard 9. Conduct (example; avoid any activities that may bring the police service into disrepute and damage the relationship of trust and confidence between the police and the public)...*

*Standard 10. Challenging and reporting improper behaviour (example; You have a positive obligation to question the conduct of colleagues that you believe falls below the expected standards and, if necessary, challenge, report or take action against such conduct.)"*



Statement made on behalf of:

The Commissioner of Police of the Metropolis

Witness:

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Statement No:

2

Exhibits Referred to:

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NH/160609/4, NH/160609/5, NH/160609/6,  
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Date Statement Made:

9<sup>th</sup> June 2016

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**IN THE MATTER OF: PUBLIC INQUIRY INTO UNDERCOVER POLICING**

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This is the exhibit marked NH/160609/6 referred to in Neil Hutchison's statement dated 9<sup>th</sup> June 2016

## **Extracts from the Home Office guidance on police officer misconduct**

### *Orders and Instructions*

*1.17. Police officers only give and carry out lawful orders and instructions.*

*1.18. Police officers abide by police regulations, force policies and lawful orders.*

### *Duties and Responsibilities*

*1.19. Police officers are diligent in the exercise of their duties and responsibilities.*

*1.20. When deciding if a police officer has neglected his or her duties all of the circumstances should be taken into account. Police officers have wide discretion and may have to prioritise the demands on their time and resources. This may involve leaving a task to do a different one, which in their judgement is more important. This is accepted and in many cases essential for good policing.*

### *Confidentiality*

*1.21. Police officers treat information with respect and access or disclose it only in the proper course of police duties.*

### *Discreditable Conduct*

*1.24. Police officers behave in a manner which does not discredit the police service or undermine public confidence, whether on or off duty.*

*1.26. Discredit can be brought on the police by an act itself or because public confidence in the police is undermined. In general, it should be the actual underlying conduct of the police officer that is considered under the misconduct procedures, whether the conduct occurred on or off duty. However where a police officer has been convicted of a criminal offence that alone may lead to misconduct action irrespective of the nature of the conduct itself. In all cases it must be clearly articulated how the conduct or conviction discredits the police.*

### *Challenging and Reporting Improper Conduct*

*1.27. Police officers report, challenge or take action against the conduct of colleagues which has fallen below the standards of professional behaviour expected.'*  
*'Home Office guidance, Police Officer Misconduct, Unsatisfactory Performance and Attendance Management Procedures, Ref: 023/2012, pp.12-13)*

Statement made on behalf of:

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Witness:

Neil Hutchison

Statement No:

2

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NH/160609/4, NH/160609/5, NH/160609/6,  
NH/160609/7

Date Statement Made:

9<sup>th</sup> June 2016

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**IN THE MATTER OF: PUBLIC INQUIRY INTO UNDERCOVER POLICING**

---

This is the exhibit marked NH/160609/7 referred to in Neil Hutchison's statement dated 9<sup>th</sup> June 2016

Diagram 1.

## Declarable Associations Flowchart

