

## Update note August 2016

### Introduction

This is the second update note for the Inquiry into undercover policing. [The first update note is available here](#). The purpose of these notes is to give a broad overview of the work that is being done by the Inquiry to progress the terms of reference.

The Inquiry is an independent Inquiry, led by a senior judge, Sir Christopher Pitchford; it was established under the [Inquiries Act 2005](#) by the Government to look at undercover policing in England and Wales since 1968.

The Inquiry's role covers undercover policing in its broadest sense; it is not limited to particular types of undercover policing<sup>1</sup>, [its terms of reference](#) are widely drawn and they require the Inquiry to find out what happened, and why, and make recommendations as to how undercover policing should be carried out in future.

Sir Christopher Pitchford made his [opening statement](#) on 28 July 2015. In this statement he said,

*"I hope that during the course of its work the Inquiry will acquire a clear impression as to the manner in which undercover policing has been conducted in England and Wales since 1968. It seems likely that the Inquiry will expose both credible and discreditable conduct, practice and management. As far as I am aware, this is the first time that undercover policing has been exposed to the rigour of public examination. At the conclusion of its investigation, the Inquiry will report to the Home Secretary and make recommendations as to the deployment of undercover police officers in the future." "The Inquiry's priority is to discover the truth. This is a public inquiry to which, as the name implies, the public will have access."*

The Inquiry's work will fall into three modules:

1. Module One will look at what happened in the deployment of undercover officers in the past, their conduct, and the impact of their activities on themselves and others.
2. Module Two will look at the management and oversight of undercover policing. In particular it will look at the authorisation of and justification for undercover police operations. This will include the role not only of police forces but also that of other government departments such as the Home Office. In relation to undercover police officers, it will look at issues such as their selection, training, supervision and care after the end of an undercover deployment.
3. Module Three will be forward looking and take evidence to assist the Chairman to make recommendations about how undercover policing should be conducted in future. It is anticipated that the Inquiry will receive evidence from expert witnesses and evidence about best practice in other jurisdictions.

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<sup>1</sup> The Inquiry is not restricted to political and social justice campaigns. It does not cover surveillance activities undertaken outside of undercover policing operations. The Inquiry's activities are limited to England and Wales.

## Progress since the June update

Since late June 2016 the Inquiry Chairman has:

- decided that the Inquiry will contact the parents or close relatives of a deceased child where the child's identity was used for police purposes, where there isn't a restriction order in place, and where it intends to publish the name of that child;
- confirmed that he will put out a notice inviting any parents or close relatives of deceased children within a specified date range to contact the Inquiry, so that in the event that the deceased child's identity was used by police and where there is not a restriction order in place relating to that information, the parents or relatives can be informed sensitively prior to the information being released;
- put in place two restriction orders for anonymity. One is in respect of 'Cairo', a police officer. The other is a provisional order in respect of 'HAB', a non police, non state core participant <sup>2</sup>;
- published his '[minded to](#)' note in relation to applications for anonymity made by non-state non-police core participants. This note indicates which applications for anonymity the Chairman is minded to grant and those that he is minded not to grant.

Alongside this work, the Inquiry team have:

- sent formal requests to organisations who are likely to have relevant evidence to submit such evidence (known as '[rule 9](#) requests');
- received voluntary disclosure of documentary evidence from state bodies, including from the Home Office, in relation to issues that will arise as part of Module Two;
- reviewed material and witness statements received in response to rule 9 requests touching upon the issues to be considered as part of Module Two, including from the Metropolitan Police Service; the National Undercover Working Group; the National Police Chiefs' Council; the College of Policing; the Home Office; the Crown Prosecution Service; and the Office of Surveillance Commissioners;
- invited applications for any restriction orders which are to be sought in relation to material already identified as being relevant to Module Two;
- sent a second tranche of rule 9 requests to organisations engaged in providing material relevant to Module Two, following-up on issues raised in first responses, and requesting the provision of more material and witness evidence;

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<sup>2</sup> Copies of the open versions of restriction orders applications can be found on the website, together with the Chairman's rulings on them: <https://www.ucpi.org.uk/preliminary-issues/restriction-orders-applications/>

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- continued to meet with a wide range of people and groups who have an interest in the work of the Inquiry, including representatives from core participants on all sides of the undercover policing debate, listening to views, establishing what documents different state bodies have and how best they can co-operate with the Inquiry to produce them;
- continued to spend time in organisations, mainly the Metropolitan Police Service and National Crime Agency, looking at material to establish whether it is relevant to the Inquiry;
- consulted upon various protocols relating to disclosure of and redaction of documents;
- conducted detailed research into legal issues of central relevance to the Inquiry;
- received and assessed around 76 claims for legal costs submitted on behalf of recognised legal representatives;
- continued to recruit members of the Inquiry team to ensure the Inquiry is properly resourced for the work it has to carry out;
- started to place evidence onto the website, including some provisionally redacted statements from the Metropolitan Police;
- published expenditure covering from the commencement of the Inquiry to the end of June 2016.

### Next steps

The next steps for the Inquiry are:

- when received, publish the response from the Attorney General regarding the use to which evidence given to the Inquiry might be put in future criminal proceedings.
- by the end of August, to consider the responses to submissions made by individual former and serving police officers in support of undertakings preventing the use of evidence given to the Inquiry by former and serving police officers in disciplinary proceedings, and to issue further directions.
- in August, seek the views of core participants in respect of the anonymity applications of police officers 'Jaipur' and 'Karachi'.
- by the end of September, the Chairman will issue directions giving an indicative timetable for next steps on anonymity applications.
- as soon as it is ready, publish an advert on how the Inquiry intends to contact the parents of deceased children whose identities have been used for covert policing.

Where it is not possible to meet one of the deadlines above, we will let people know.

## Looking further ahead

- Over the course of the summer, we will continue to review the evidence that we have received from state bodies.
- Between now and the end of the year, we will publish rulings in relation to restriction orders, with the possibility of hearings in respect of applications for such orders.
- Early in the New Year, the Inquiry hopes to be in a position to set a timetable for the Module One evidential hearings, commencing later in 2017.

In addition to the above we may also issue ad hoc rulings that determine fresh applications for core participant status, and associated rulings on recognised legal representation and costs.

## A focus on...

From time to time we will provide a bit more detail on certain aspects of the Inquiry. For this update note we are focusing on *core participants* and *evidence gathering*.

### *Core participants*

You don't need to be a core participant to engage with the Inquiry, and many of those who give evidence to assist the Inquiry won't be core participants.

You also don't need to be a core participant to have your legal costs covered, and many of those engaging with the Inquiry either won't want to take on the responsibilities of being a core participant, or don't meet the criteria for being one.

You also don't need to be a core participant to access information about the Inquiry. All information that is publicly available goes onto the Inquiry's website.

When someone applies to be a core participant the Inquiry Chairman makes a decision on whether or not they come within the scope of the terms of reference, and whether or not the application meets the criteria set out in rule 5(2) of the Inquiry Rules 2006. The Chairman will also consider whether the applicant may be subject to significant or explicit criticism during the proceedings of the Inquiry, or in the report when it is written.

A core participant need not be a core participant for the whole of the matters in the terms of reference or for the entire duration of the Inquiry; they may just be a core participant for a specific part.

Core participants can have access to all of the public evidence relevant to their particular interest in the case. In some cases, core participants can also have their reasonable legal costs paid.

There is no cut off point beyond which people or organisations can not apply to be core participants, nor does the test to be applied change. As the Chairman has said on earlier occasions, applications for core participant status that have been declined

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will be kept under review while the Inquiry is examining the evidence, documents and information that it receives.

The following table shows a breakdown of applications for core participant status made at the date of publication.

### *Core participant applications*

Month/Year	Number applied	Number refused	Number granted
October 2015	278	76	202
November 2015	3	2	1
December 2015	7	2	5
January 2016	5	2	3
February 2016	3	1	2
April 2016	3	2	1
May 2016	1	1	0
June 2016	2	1	1
August 201	1	0	1
Total	303	87	216*

\* Over the period in question, 16 individuals withdrew from being core participants, two of whom later successfully reapplied (their reapplications are included in the first column of the above table). There are currently 200 core participants.

More information on core participants can be found on [the core participant page of the website](#) and in '[frequently asked questions](#)' .

### *Evidence gathering*

People who interact with the Inquiry have asked us about the steps we have been taking to gather and review the necessary evidence for the Inquiry.

The Inquiry has requested and been granted access to the substantial quantity of material held by Operation Herne relating to the work of the Special Demonstration Squad. We are presently continuing to analyse this material. The material held by Operation Herne, also includes a large quantity of material from the National Public Order Intelligence Unit. The Inquiry has carried out some preliminary analysis of this material, but the material is now to be catalogued before full analysis can begin.

The Inquiry has issued 13 separate rule 9 requests for information to the Metropolitan Police Service, which have again principally been about finding out what sort of information is held, although some of the information provided to us relates to how the Metropolitan Police safeguard their evidence; this was [recently published on the Inquiry's website](#). Much of the information the Inquiry has requested is sensitive in nature, and as such we need to complete the installation of specialist

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hardware and software that will facilitate large scale document review. In the meantime the Inquiry is making an assessment of less sensitive documentary evidence and hard copy sensitive information.

The other 42 territorial police forces in England and Wales have received and responded to three rule nine requests each. In summary, these requests have been designed to find out what material is held for the relevant period about:

- (i) the scope of undercover policing in that region / the degree of involvement on the part of that force, the way in which the work has been organised and the contribution made by the tactic to policing in that area;
- (ii) examples of failings or deficiencies in the use of undercover policing in that region over the relevant period; and
- (iii) the involvement on the part of each force in National Public Order Intelligence Unit operations.

In addition to the above, we have also issued Rule 9 requests to a number of other police and non-police state bodies, to further the work of the Inquiry. This includes more than 20 requests for information and evidence relating to Module Two, which have led to the provision to the Inquiry of several hundred documents. The Rule 9 requests have also led members of the Inquiry team attending to inspect material in situ at state bodies' premises.

Once evidence has been identified and provided, it needs to be assessed by the Inquiry for relevance and necessity. After this, time needs to be allowed for any application for [a restriction order](#) to be sought, first by the provider of the document, and then by any affected third party. A restriction order may be sought to cover all or part of the evidence to be made, and the Inquiry Chairman must make an assessment about whether or not he will grant such an order.

### Key statistics

As at 11 August 2016 the Inquiry has:

- held five preliminary hearings;
- made around 240 'Rule 9' requests for information from more than 50 organisations;
- made one [section 21](#) request for information;
- received over 320,000 documents from the Metropolitan Police Service alone;
- received nearly 160 witness statements (not including further or replacement statements), plus three further witness statement and three replacement witness statements;
- issued seven sets of directions;
- issued 34 rulings;
- issued five Chairman's notes;
- made five orders;

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- issued seven notes from Inquiry Counsel;
- designated 200 core participants, of whom 178 are receiving funding for legal costs from the Inquiry;
- designated 23 recognised legal representatives;
- received more than 40 formal submissions and position statements from core participants and others with in the Inquiry;
- received 32 applications for anonymity;
- received 11 requests for other forms of restriction order;
- received more than 60 notifications of intention to request a restriction order;
- received 24 tranches of voluntary disclosure; and
- recruited 25 people to work with the Chairman as part of the Inquiry team.

## Latest documents

The Inquiry website already hosts a significant amount of information sorted into topic areas. During its progress, the Inquiry anticipates receiving many hundreds of thousands, potentially millions of documents from a range of sources.

## Questions and queries

The Inquiry has a full set of '[frequently asked questions](#)' (updated on 10 August 2016), covering matters such as how the Inquiry can be contacted, how people can engage with its processes, and what it means to be a core participant.

## Contacts:

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