

Preliminary Issue: Restriction Orders (anonymity applications)

Further direction

1. On 22 August 2016 I partially withdrew the directions which I had made on 27 May 2016 concerning the applications for restriction orders made by police officers represented by Slater & Gordon. In particular, I withdrew the direction at paragraph 5(4) which provided as follows:

“By 4pm on Thursday, 15 September 2016 the non-police, non-state core participants shall deliver to the Inquiry such written response to the applications for anonymity made by the Slater and Gordon police officers as they wish. Subject to further application to the Chairman, there will be a single joint response from legally represented non-police, non-state core participants”.
2. I withdrew this direction because, at that time, the Inquiry was not in receipt of all the evidence on which the Slater & Gordon applicants intend to rely in support of their applications for anonymity. Furthermore, the Metropolitan Police Service had not completed the work required to prepare Cairo’s witness statement for disclosure to the non-police, non-state core participants. I did not, then, consider it possible to set a substitute deadline for submissions from the non-police, non-state core participants and decided to keep the matter under review. I stated that I would provide an updated direction as soon as I was able. At that stage it was anticipated that I would be in a position to give further directions by the end of September 2016 and for this reason the Inquiry’s August 2016 update note stated as a “next step” that I would issue directions by the end of this month.
3. In the result, it remains the case that the Inquiry is still not in receipt of all the evidence on which Slater & Gordon applicants intend to rely in support of their applications for anonymity. The Inquiry is awaiting a number of medical reports.
4. Cairo’s witness statement in support of the Slater & Gordon applicants is still not ready for publication. At the request of the Metropolitan Police Service the Inquiry is consulting a number of other state bodies which appear to have an interest in the outcome of the applications for restriction orders made in respect of this witness statement.
5. In addition to the above matters, there has been a further significant development in relation to the evidence which was being relied upon in support of the Slater & Gordon applications for anonymity. In response to the written submissions made by

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counsel for the non-police, non-state core participants, Ms Ruth Brander, dated 16 September 2016, and questions raised by the Inquiry legal team, the Metropolitan Police Service, on 27 September 2016, indicated that it is withdrawing the risk assessments made by the officers known, provisionally, as Jaipur and Karachi. In short, the Metropolitan Police Service has accepted that it is both possible and desirable to identify risk assessors who are more independent of the applicants and their work. The Metropolitan Police Service is now urgently seeking to identify new risk assessors who will produce fresh risk assessments to replace those previously relied upon. It will be updating the Inquiry as soon as it is able to do so.

6. In these circumstances I remain of the view that I cannot, at present, sensibly reset the deadline for a response by the non-police, non-state core participants to respond to the Slater & Gordon applications for restriction orders. I will so do as soon as I am able.
7. Although the witnesses provisionally known as Karachi and Jaipur are no longer relied upon by the Metropolitan Police Service, the Metropolitan Police Service has made clear that it intends that these officers will act as a conduit for information between former undercover police officers seeking anonymity and the new risk assessors. In those circumstances, and because both witnesses may be required to give evidence in Module 2, I have decided that it is still necessary for me to determine their applications for anonymity. Although there has been a change of factual circumstances, the essential grounds for their applications appear to me to remain the same. If either the Metropolitan Police Service, on behalf of Karachi and Jaipur, or the non-police, non-state core participants wish to make any supplementary submissions in writing addressing the impact of the Metropolitan Police Service's concession on the applications for Karachi and Jaipur, they will need to be delivered to the Inquiry by 4pm on Wednesday 5 October 2016.
8. In view of the time which it is taking police applicants for anonymity to prepare their applications, the Inquiry has given early notice to the Metropolitan Police Service identifying those who are to be given an opportunity to apply for anonymity after the Slater & Gordon applicants. The Solicitor to the Inquiry wrote to the Metropolitan Police Service on 12 August 2016 setting out arrangements which require the provision on a rolling basis applications from all former SDS officers who wish to apply for anonymity by no later than 1 March 2017.

29 September 2016

Sir Christopher Pitchford
Chairman, Undercover Policing Inquiry