

Our ref: GP/ep/Pitchford

Your ref:

B **Birnberg Peirce & Partners**

Solicitors

23rd March 2017

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The Undercover Policing Inquiry

**By email only: contact@ucpinquiry.gsi.gov.uk and
Piers.Doggart@ucpinquiry.gsi.gov.uk**

Dear Sirs

Union Core Participants

We send the attached short submission on behalf of the Union Core Participants whose position is in some ways distinct from that of individual Core Participants and for that reason merits the attached document which draws attention to the most obvious distinctions.

You will note that the letter of 16th February to the Inquiry (attached herewith) included amongst its signatories two unions who are not at present Core Participants. Their interests and concerns, however, coincide exactly with those who have Core Participant status. Namely that it is believed if the Inquiry pursues the investigations requested of it which only the Inquiry can conduct, that the resulting data would lead to the relevant unions being granted Core Participant status too.

Yours faithfully



Birnberg Peirce and Partners

enc: - Submission in response to Counsel to the Inquiry's Note of 2nd March 2017

- Letter to the Inquiry dated 16th February 2017

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Response of the Union Core Participants to Counsel to the Inquiry's Note of March 2nd 2017

The majority of Core Participants, are endeavouring, we understand, to make a joint response to the Inquiry Note of March 2nd to address such issues that have been able to be mutually canvassed in an agreed document.

The concerns of the Core Participants who are trade unions and their hundreds of thousands of members past and present, cannot be easily jointly incorporated thus. This document consequently summarises on their behalf the following:

1. On February 16th 2017, before the publication of Inquiry counsel's Note of March 2nd, those Core Participants who comprised trade unions and their members wrote to the Inquiry in the attached letter*. The concerns articulated in their letter, to which no reply has been received, have been heightened by the Inquiry's Note.
2. It was always clear that the sheer scope of the necessary enquiries involved in the case of trade unions would be substantial and extend potentially for decades into the past. The key relevant material would inevitably be held in police and/or government files, not only in relation to distinct cases, but also in relation to particular methodology and policy relating to the unions. Unlike the cases which through the efforts of victims, activists and journalists have by accident or determination already uncovered individual circumstances, almost all of the potential material relevant to the unions was and remains entirely inaccessible to them.
3. They view with extreme concern, after a year and a half, the Inquiry's suggestions of restriction of its investigations. The unions and their legal representatives elected, after careful consideration, not to engage in the preliminary legal arguments relating in particular to the position of identifiable individual officers. They emphasised their interest in evidence of policy and systemic practices towards their institutions, albeit exemplified by actions toward individual members. They pointed to potential sources of information already publicly available (as for example in the NUM submissions, statements by Chief Constables identifying units to be formed either from within Special Branch under MI5 direction, or via secret intelligence units intended to concentrate on "*legitimate groups like the NUM*").
4. The Inquiry's summary of its work of the past year and a half gives no indication that it has initiated robust and extensive routes of relevant inquiry nor that it has insisted (either at all or with any success) in the production of evidence that might begin to throw light, one way or another, on the deployment of undercover police in respect of trade unions.

5. The Inquiry's suggestion that it narrows its focus and adopts a "*less intensive approach...to enable the primary focus on the SDS and the NPOIU*" causes grave concern on the part of the signatories to the letter of February 16th that no adequate evidential basis to prepare for Module 2 as it relates to trade unions has yet been undertaken or is likely now to be contemplated.

In their letter the unions requested an urgent hearing to raise their specific questions with the Inquiry and to obtain answers. Instead, it appears no reply is contemplated by the Inquiry and that it is for the unions instead to respond to a Note which addresses primarily aspects of the Inquiry on which they elected a year and a half ago not to focus. Yet the Note extends, without warning to the unions, to suggestions that drive coach and horses through what they and their members were led to expect.

March 23rd 2017

*Letter of February 16th 2017 attached

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16th February 2017

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Dear Sirs

This letter is written to you on behalf of the core participants who comprise unions and their members and those with a potential identical interest.

We write to express the extreme concern of those we represent in respect of their particular position. We are party to the letter being written on behalf of non-state core participants and do not dissent in any way from the contents, but wish to make these particular points.

The recognition by the Inquiry of a number of trade unions and their members as core participants in the Inquiry constituted an acknowledgment that evidence was likely to be available that would allow the Inquiry to consider whether unlawful intrusion had taken place into the workings of the organisations themselves, or into the lives of their members.

Once acknowledged, it was always clear that the sheer scope of the necessary enquiries involved would inevitably be substantial and extend for potentially decades into the past.

The key relevant material would inevitably be held in police and/or government files, not only in relation to distinct cases, but also in relation to particular methodology and policy relating to the unions. Unlike the cases that through the efforts of victims, activists and journalists had by accident or individual determination uncovered individual circumstances, almost all of the potential material relevant to the unions was and remains inaccessible to them.

The unions have heard virtually nothing from the Inquiry since its inception as to the process of retrieval that has been engaged by the Inquiry's team, potential categories of data sought and successfully obtained, and what urgent enquiries have been initiated as a result of the revelation a few days ago that after the commencement of the Inquiry relevant Metropolitan Police files were destroyed. We would like to know, as

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one example only of questions now triggered, whether the SDS file identified in the Stephen Taylor investigation in January 2015 and covering its activities from 1968-2008 (including, we believe, surveillance of trade union activities) has yet been recovered.

In these circumstances, the unions ask for a hearing before the Inquiry. Their alarm is considerable. They have no idea what the position is in relation to the preservation and recovery of documents which might affect them, documents extending potentially over decades, accessible only by the Inquiry team, in the hands of not just the Metropolitan Police but police nationwide, and affecting the organisation and the lives of millions of British citizens. The Inquiry will agree, the discovery of the shredding of documents and the need for document preservation affects issues of already grave national importance potentially involving those we represent.

We look forward to hearing from the Inquiry with a date at which unions can be represented and have a full opportunity to be put adequately into the present picture, and to air their individual positions, for the most part overlapping, but each with particular distinct aspects.

Yours faithfully,

Gareth Peirce for the National Union of Mineworkers
Birnberg Peirce and Partners

And

Imran Khan for the Blacklist Support Group
Imran Khan and Partners

And

Roy Mincoff, for the National Union of Journalists
Legal and Industrial Officer

And

Karen Mitchell for the National Union of Rail, Maritime and Transport Workers
Legal Officer and Head of Legal Department

And

Paula Porter for the Fire Brigades' Union
Thompsons Solicitors

And

Neil Todd, for Unite the Union (incorporating UCATT)
Thompsons Solicitors