

Core Participants Ruling 12

Introduction

1. Since the Inquiry issued my last Core Participant Ruling, 11, on 6 September 2016 it has received several further applications for designation as core participant. For ease of reference I shall identify the successful and unsuccessful applications in the table below:

Applicant	Legal representative	Designation	Category
Azhar Khan	Saunders Law	Designated	[I] Miscarriage of justice
Monsignor Bruce Kent	Bindmans LLP	Not designated	-
Lynette Edwell	Bindmans LLP	Not designated	-
Nigel Day	Bindmans LLP	Not designated	-
Paul Brannen MEP	Bindmans LLP	Not designated	-
Martin Powell-Davies	Public Interest Law Unit	Not designated	-
Anthony Thompson	Bindmans LLP	Designated	[L] Social and environmental activists
Frances Curran	Public Interest Law Unit	Not designated	-
Joseph Batty	Public Interest Law Unit	Not designated	-

2. I have decided to take this opportunity to address some issues that are common to the current applications for two reasons. Firstly, it is my obligation under section 17 (3) of the Inquiries Act 2005 to act fairly and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or others) when making rulings as to the procedure and conduct of the Inquiry. Secondly, it is now 18 months since I initially requested that applications for designation should be submitted by 18 September 2015 (see Opening Remarks, 28 July 2015, paragraph 31) and 14 months since that deadline expired.

Principles and approach

3. I set out the principles that apply to designation and the approach that I would adopt to applications for designation in my first Core Participants [Ruling of 21 October](#)

[2015](#) at paragraphs 2 – 15. This ruling and those paragraphs should be read together.

4. I said in my ruling of 21 October 2015, at paragraph 14, that in assessing applications for designation as core participant I would not be relying on information from police sources that was not already in the public domain. I make it clear that remains the position as at the date of this ruling. There are good reasons for this self-direction: I wish to adopt a consistent approach to applications, and to the review of applications, and to establish a pattern of working that enables the Inquiry efficiently to manage its investigation. I shall explain further below the method by which the Inquiry will seek to fulfil its investigative objectives. Of necessity, my present observations are directed primarily to those whose political, social or environmental campaigning may have been the subject of undercover police surveillance, although the terms of reference embrace all targets of undercover policing.

Explanation of the time limit for applications

5. The Inquiry's terms of reference are widely drawn. At the time of my Opening Remarks on 28 July 2015 the Inquiry was aware of the public interest in its work and the weight of documentary information relevant to the terms of reference that it was likely to receive from the police services. Some members of the public already had good reason to think that they played or may have played a significant role in the subject matter of the Inquiry, or part of it, and that they had a significant interest in an important aspect of its subject matter. Others, by reason of their affiliation to political, environmental and other groups, suspected that they may have been, and wished to know whether they had been, affected by undercover policing. It was clear that during the course of its consideration of the material disclosed to it by the police services the Inquiry would acquire a more complete picture of the range of its work than it could hope to have on the opening day.
6. It was against this background that I sought applications for designation within the time limited. At paragraphs 9 – 12 of my first Core Participants Ruling of 21 October 2015 I explained my approach to the task of designation. I stated at paragraph 10 that I intended to adopt an inclusive approach so as to ensure that as a wide a range of interests as possible was represented in the core participant cohort. However, at paragraph 11, I also explained that many of the applications received were from campaigning individuals or groups who wanted to know whether they had been targeted by undercover operations and, if so, to what extent. I gave my reasons for concentrating on the *significance* of the applicant's role and the *significance* of the applicant's interest in an *important* aspect of the subject matter of the Inquiry. At paragraph 12, I explained that the interests of a person who was not

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designated a core participant would nonetheless be recognised where the issues raised were relevant to the subject matter of the Inquiry. In the knowledge that the Inquiry would acquire relevant information during the course of its work, I stated that unsuccessful applications would be kept under review. I shall explain my approach to this undertaking further at paragraphs 11 - 13 below.

7. I consider that the Inquiry has succeeded in ensuring that non-police, non-state interests in the Inquiry are widely represented among its core participant cohort. In the early stages of the Inquiry I designated a number of individuals who had an almost identical interest in the Inquiry because at that time it would have been invidious to select one representative individual for designation and refuse the applications of the others. This is illustrated most clearly in Category [I] Victims of miscarriages of justice.
8. There were at least three reasons why it was appropriate at the outset to set a date by which to receive applications for designation: First, it was necessary to discover at an early stage, if possible, the nature and range of interests that were likely to be represented by core participants in the Inquiry. This knowledge would, in part, inform the Inquiry of the likely direction of its investigations, and it has done. Secondly, the establishment of a widely representative core participant cohort at an early stage was conducive to the effective management of the important preliminary stages of the Inquiry, when influential legal and procedural issues affecting core participants and witnesses would be confronted. Most of those stages have been completed, and the Inquiry now has a cohort of co-operating non-police, non-state core participants who are representing non-police interests very effectively. Thirdly, a cohort of core participants established early in the life of the Inquiry would (and does) assist the effective management of the Inquiry and the continuity of its work.
9. In my view, for the reasons given in paragraph 8, it is no longer appropriate when exercising my *discretion* under rule 5 of the Inquiry Rules 2006 to attach particular importance to the range of interests represented at the Inquiry; nor am I likely to make designations for the purpose only of ensuring the effective management of the Inquiry.

An emerging pattern

10. In recent months a pattern seems to have emerged among applications for designation. Some applicants are not offering any explanation for the lateness of their applications. Some applicants are paying insufficient attention to the explanation of my approach to designation summarised at paragraph 6 above. The result is that I am being asked to make designations in favour of applicants in respect of whom there is little or no evidence of a *significant role* by way, for

example, of a relationship formed with them by a suspected undercover officer for the purpose of acquiring information. Applications are being founded on assertions of membership of campaigning groups the targeting or infiltration of which is likely to be investigated by the Inquiry, without sufficient regard to the significance of the role of the applicant in the subject matter of undercover police operations in general, and of the justification for and the effect of such operations, in particular.

The Inquiry's approach to investigation

11. The Inquiry will not be examining the detail of every undercover police operation against every campaigning or protest group that has existed since 1968; nor will I be able to make designations as core participant simply because the applicant was affected by undercover policing. A moment's reflection will inform the reader that such an undertaking would be completely incompatible with the reasonable duration of the Inquiry and would constitute an intolerable burden on precious public resources.
12. As was made explicit during the Restriction Orders: Legal Principles and Approach hearing on 22 and 23 March 2016, the police services and the Home Office are already committed to providing to the Inquiry all the documentary material in their possession that is relevant to the terms of reference and the Inquiry wishes to see, leaving it to the Inquiry to make an assessment of its importance.¹ During the Inquiry's examination of material provided to it by the police services and the Home Office I will be required to make judgements as to the priorities that I should set for the Inquiry's further work.
13. As to preparation for Modules One and Two, I will have regard, in particular but not exclusively, to:
 - (i) the need to explore the underlying purpose or motivation for undercover policing and to examine the justification given for authority to target individuals or members of a campaigning group;
 - (ii) the interests of individuals who have been affected directly by the activities of an undercover police officer whether the activity was authorised or not. This will include, within limits I shall have to determine according to priorities and resources, (a) the conduct of undercover police officers, whether authorised or not; (b) a study of the uses to which information about an individual was put after it had been reported to managers, (c) the extent of participation by undercover police officers in activity leading to the arrest of themselves or others and (d) the handling of issues of disclosure in criminal cases; and

¹ Restriction Orders: Legal Principles and Approach Ruling, 3 May 2016, paragraph 10

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- (iii) systemic issues raised by (a) the selection and training of police officers for undercover work, (b) the authorisation for and management of undercover police operations, (c) political accountability for undercover police operations and (d) the welfare of undercover police officers and their families.
14. If during the examination of material provided to the Inquiry by the police services and the Home Office, or during the consideration of witness statements provided to the Inquiry, it appears to me that, by reason of the *significance of their role* in part of the subject matter of the Inquiry and/or by reason of the *significance* of their interest in *an important aspect* of the Inquiry, a person, who is not already a core participant, should be invited to become a core participant, the Inquiry will issue the invitation. I shall have to make judgements as to whether, in the context of the Inquiry's subject matter as a whole, the role of an individual was significant and/or their interest in an important aspect of the subject matter of the Inquiry is significant.
15. It will not be necessary to make applications for designation to the Inquiry merely for the purpose of registering an interest in its investigation or making a proposal for the direction of an investigation. The Inquiry is willing to consider a reasonable request to adopt a particular area of concern for investigation, provided that it is within its terms of reference and represents a proportionate use of the Inquiry's resources. The individual concerned does not need to become a core participant in order to gain the attention of the Inquiry team.

The Inquiry's current approach to designation

16. I have explained in the preceding paragraphs the purpose of the time limit for applications for designation and the Inquiry's approach to the future direction of its work. I now turn to some of the factors that will influence my consideration of present and future applications for designation.
17. In fairness to existing and future core participants, I shall in future require an explanation of the specific circumstances in which the application came to be made so late.
18. I will be unlikely to grant applications that are founded merely on membership of a group that, it seems to the applicant, was a likely target of one or more undercover officers, particularly when the interests of that group are already represented by existing core participants in the Inquiry.
19. An exception may be recognised when an application relies on a specific relationship with a suspected undercover police officer (whether intimate or not), if I also conclude that the relationship, and therefore the applicant's role, is significant

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in the context of that part of the subject matter of the Inquiry with which the application is concerned.

20. When the application raises a new and, in my view, important issue for consideration by the Inquiry, or exposes a new and important insight into an existing issue, and the applicant fulfils the criteria explained at paragraph 6 above, the application is likely to be granted.
21. These are not hard and fast rules - each application will be considered according to its own facts. My intention is to provide some assistance to applicants so that time and effort is not wasted. Applications that are not granted will be kept under review, in the way that I have explained at paragraph 13 above, unless I conclude that the application is outside the terms of reference or otherwise without merit.
22. Applying the principles and approach to which I have referred I shall consider each of the present applications in turn.

Azhar Khan

23. Mr Azhar Khan is a solicitor specialising in criminal work. On the basis of intelligence whose source and reliability is unknown to the Inquiry and, I believe, unknown to Mr Khan, it appears that Mr Khan came under suspicion for the relationship between himself and one or more of his clients. In about November 2007 the Metropolitan Police conceived a plan to carry out surveillance on Mr Khan, using undercover police officers pretending to be criminals seeking legal representation. The 'charges' against the undercover officers were bogus. The plan was that once a 'professional' relationship was established Mr Khan would be tempted to assist his 'clients' to pervert the course of justice and/or to participate in a money laundering enterprise. This technique was called "integrity testing". According to the transcript of her evidence, to the knowledge of the officer supervising the operation, Detective Inspector Marion Ryan, this was the first time this form of surveillance had targeted a practising solicitor.
24. Authorisation for the operation was given on 30 June 2008. Detective Inspector Ryan assumed responsibility for the operation on 9 September 2008. At some stage the Chief Surveillance Commissioner was given an informal briefing. During the period between 8 October 2008 and 8 December 2009 Mr Khan was introduced to four separate undercover police officers. Several conversations that took place face to face and by telephone were covertly recorded. The officers pretended to be criminals engaged in the trade in illicit drugs, gave Mr Khan an opportunity to engage in money laundering and sought his implicit if not express approval for perjured evidence. On 8 December 2009 Mr Khan's home and office were searched under a warrant. Later, he was charged with, among other things, conspiracy to

pervert the course of justice. On 8 July 2010 at Kingston upon Thames Crown Court, His Honour Judge Dodgson ruled that Mr Khan had no case to answer and Mr Khan was discharged. For that reason the judge was not invited to give a ruling on the defence application to stay the proceedings on the ground of abuse of process.

25. Mr Khan has offered no explanation for the delay in making his application. However, his application discloses that further criminal proceedings taken against him, resulting in acquittal, were not concluded until 2015, and in 2016 he was due to attend his trial for an alleged revenue offence that has been adjourned to early 2017. I can reasonably infer that Mr Khan has had other priorities to face before considering his possible role in the Inquiry.
26. In my view, Mr Khan satisfies the criteria set out in rule 5 (2)(a) and (b) of the Inquiry Rules 2006, in that he played or may have played a significant role in relation to part of the subject matter of the Inquiry and has a significant interest in an important aspect of the Inquiry. The application asserts that these and related criminal proceedings have had a profound effect on Mr Khan's ability to practice. The Inquiry will wish to investigate, among other things (i) the justification for the operation, (ii) its duration and persistence, (iii) the manner in which it was conducted by individual officers and (iv) its consequences. I shall designate Mr Khan a core participant and, for the purposes of the Inquiry, I shall place him in **Category [I] Miscarriages of justice**.

Monsignor Bruce Kent

27. Bruce Kent was ordained to the priesthood in the diocese of Westminster in 1958. He retired from active ministry in 1987 having attained the title of monsignor. He was, in addition, General Secretary and Chair of the Campaign for Nuclear Disarmament between 1980 and 1990 and is now a Vice-President of the organisation. Both Monsignor Kent and the Campaign for Nuclear Disarmament have worldwide reputations for their campaign for peace and nuclear disarmament.
28. In summary, it is submitted on Monsignor Kent's behalf that it is inconceivable that during a period when the Campaign for Nuclear Disarmament generated public demonstrations numbering many tens of thousands, especially on 16 July and 22 October 1983, it and Monsignor Kent personally would not have been the subject of surveillance, including surveillance by undercover police officers in the Special Demonstration Squad.
29. As to the detail, in an article published by The Guardian newspaper online on 14 January 2016 the journalist Rob Evans drew attention to, among other things,

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several documents that had been released by the Metropolitan Police Service and the Home Office in a redacted form under one or more requests under the Freedom of Information Act 2000. Among those documents, which I have read, were “threat assessments” for the demonstrations planned for 16 July and 22 October 1983, together with reports upon those demonstrations. It is contended that these documents demonstrate that Special Branch held files on the campaign for Nuclear Disarmament and Monsignor Kent.

30. I accept that Monsignor Kent has shown that both he and the Campaign for Nuclear were of interest to Special Branch. I also accept that Special Branch will have gathered intelligence about planned demonstrations from sources available to it, including, it is clear from some of the documents, the organisers themselves. However, as Mr Evans candidly acknowledges in his article, there is nothing in the documents disclosed that is capable of establishing that the source of any relevant information was an undercover police officer. Having read the documents for myself I agree with him.
31. Even if I was to infer that an undercover police officer did pass some intelligence about Monsignor Kent and the Campaign for Nuclear Disarmament to his or her managers, and that intelligence was subsequently passed to Special Branch, the application would not establish that Monsignor Kent played or may have a *significant* role in part of the subject matter of the Inquiry or that Monsignor Kent has a significant interest in an *important* aspect of the Inquiry’s work. A conclusion to that effect might be reached if and when the Inquiry acquired knowledge of specific intelligence provided by the Special Demonstration Squad to Special Branch, depending upon the content of the intelligence. Only then would it be possible to reach a conclusion as to the significance of Monsignor Kent’s role and the importance of his interest in the subject matter of the Inquiry.
32. Monsignor Kent does not explain why his application for designation has been made so late. Nonetheless, on this occasion I have considered the application on its merits. In fact, the only material on which the application relies that post-dates 18 September 2015 is the article in The Guardian to which I have referred at paragraph 29 above. For the reasons I have given at paragraphs 30 and 31 above I do not consider that the recent material assists me to the essential conclusion.
33. I shall not designate Monsignor Kent at this stage. This is an application that will be kept under review.

Lynette Edwell and Nigel Day

34. In the 1980s and early 1990s there were other protest movements and demonstrations against the siting of nuclear weapons in the United Kingdom. These

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included the Greenham Common Women's Camp (near Newbury), Cruisewatch and Nukewatch.

35. Lynette Edwell joined the Greenham Common Peace Camp. Among other activities she used her home in Berkshire as a 'safe house', for planning and for the support of protestors. She regularly attended demonstrations and occasionally stayed on site overnight.
36. Nigel Day was a campaigner with Cruisewatch and Nukewatch, who lived in Wiltshire on the edge of Salisbury Plain, where convoys would arrive from Greenham Common for military exercises. Mr Day was a campaigner who assisted communication between groups as to the movement of convoys. He also assisted with transport for campaigners and prepared reports for the press.
37. Both Ms Edwell and Mr Day consider it probable that the organisations they supported were infiltrated by undercover police officers employed by the Special Demonstration Squad. It was asserted by Rob Evans and Paul Lewis in their book 'Undercover' that two female officers were selected to join the peace camp at Greenham Common. Ms Edwell and Mr Day think that they may have identified the undercover name of one female officer who infiltrated the national office of the Campaign for Nuclear Disarmament in London during the mid 1980s and later became active both at Greenham Common and in Salisbury Plain.
38. Mr Edwell and Mr Day explain their late applications for designation as "the lack of detailed information in the public domain about undercover police officers and those affected by them". No material of recent origin is identified as forming the basis for the decision to make an application at this stage.
39. These are applications that rely on membership of campaign groups that may have been infiltrated by one or more undercover police officers. The possible identification of a named undercover officer, admittedly based on "recollections [that] are relatively dim", is speculative. I intend no criticism; this is inevitable in the case of many of the suspicions held by activists.
40. Even if I assume that the campaigning groups were infiltrated by one or more undercover police officers I have been provided with no information within the applications that would enable me to conclude that either Ms Edwell or Mr Day played or may have played a *significant* role in part of the subject matter of the Inquiry or that they have a significant interest in an *important* aspect of the Inquiry's work.
41. I shall not designate Ms Edwell or Mr Day as core participants in the Inquiry at this stage, but their applications will be kept under review.

Paul Brannen MEP

42. Paul Brannen is now the Member of the European Parliament for the North East of England. While at Leeds University between 1982 and 1988 he became Secretary of the Anti-Apartheid Movement Society. He attended several demonstrations in Leeds, London and elsewhere and was a campaigns officer for the Anti-Apartheid Movement between 1988 and 1991.
43. Mr Brannen seeks designation as a core participant on the principal ground that there is evidence of infiltration of the Anti-Apartheid Movement by a person, said to have been an undercover police officer in the late 1960s and early 1970s. The effect of the submissions made on his behalf is that there must have been continued undercover surveillance of the Anti-Apartheid Movement during the period when Mr Brannen was active.
44. Mr Brannen also explains the lateness of his application by reference to the lack of information in the public domain.
45. At present I do not have sufficient information to justify making the designation requested. No information has been submitted with Mr Brannen's application that would suggest that he was or may have been affected by undercover policing during his period of activism.
46. In my view, this is an application that should be kept under review.

Martin Powell-Davies

47. Martin Powell-Davies became a teacher in 1986 and joined the National Union of Teachers. He was a Divisional Secretary of the Union when employed in the London Borough of Lewisham and is now London Regional Secretary. Mr Powell-Davies has been active in left wing politics since the 1980s. He was a supporter of and contributor to the Militant newspaper, a convenor for Militant Labour Teachers and a supporter of the Socialist Teachers Alliance. In the 1990s Mr Powell-Davies was prominent in opposition to the leadership of the National Union of Teachers on the issue of the Union's response to proposed cuts in education budgets and increases in class sizes. He was also prominent in opposition to proposed trade union rule changes that would have had the effect of reducing the ability of Conference to defy the leadership line. He believes that the public profile of the dispute was likely to have attracted the attention of undercover police officers. He draws attention to the apology made by Peter Francis through a statement in Parliament on 13 March 2013 for his intelligence reporting on trades unions, including the National Union of Teachers.

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48. Mr Powell-Davies also participated in anti-racism demonstrations with Youth Against Racism in Europe and the Anti-Nazi League.
49. In their email letter of 8 November 2016 enclosing Mr Powell-Davies' application, Public Interest Law Unit asserted, "*He was spied on by Peter Francis and Carlo Neri. In terms of proof, Peter Francis has confirmed this to us, and has confirmed that a SDS/Special Branch file was opened on the applicant.*" [emphasis added]
50. In the application itself, at page 7, paragraph (xxi), it was asserted that "*Peter Francis felt it necessary to keep our client under surveillance. As we have been advised by Rob Evans, Peter Francis opened a file on our client and this was passed through to Special Branch and MI5.*" [emphasis added]
51. On 18 November 2016 the Inquiry sought clarification of the ambiguity implicit in these separate assertions. The Inquiry wished to know exactly what was the information supplied by Mr Evans that emanated from Peter Francis. Mr Heron of Public Interest Law Unit replied in an email timed at 13.18 hrs that a file was opened on Martin Powell-Davies by Peter Francis and that a copy was sent by Special Branch to MI5. It was not being asserted that Rob Evans could confirm that Carlo Neri had "spied on the applicant". The applicant was asking the Inquiry to draw the inference that since a file on Mr Powell-Davies had already been created by Peter Francis, it is likely that Peter Francis' successor, Carlo Neri, "would have had an ongoing interest in the political work of the applicant".
52. The Inquiry received further and apparently contradictory clarification by email from Mr Heron at 14.24 hrs. On this occasion Mr Heron said that he had been informed by Rob Evans of Peter Francis' account of being instructed by his handlers in the Special Demonstration Squad to provide "as much in formation as possible on leading individuals" in Youth Against Racism in Europe and Militant/the Socialist Party. Mr Francis provided information to be included in a file that already existed. Other files were created by Mr Francis "using his own initiative". Mr Heron could not be sure whether a Special Branch file on Mr Powell-Davies already existed, to whose contents Mr Francis thereafter contributed, or Mr Francis created the file himself.
53. Applicants should be careful in their applications for designation to distinguish between *assertions* that they played a significant role in part of the subject matter of the Inquiry and *evidence* that they played such a role. On close examination the evidence advanced by Mr Powell-Davies does not establish that Peter Francis or anyone else created or may have created a file on *him*. It establishes that Peter Francis created or may have created files on an unknown number of unknown individuals who were active in Youth Against Racism in Europe and

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Militant/Socialist Party. The essence of Mr Powell-Davies' grounds of application is that he fell within the category of persons in whom the Special Demonstration Squad and Mr Francis would have been interested having regard to his political allegiances and activities.

54. I shall assume for present purposes, without finding, that Mr Powell-Davies may have been the subject of intelligence reports submitted by one or more undercover officers employed by the Special Demonstration Squad. However, I have no evidence of any personal relationship made with Mr Powell-Davies or with anyone else whom he identifies among his immediate circle of friends and associates.
55. I do not consider that Mr Powell-Davies' application establishes that he played or may have played a *significant* role in part of the subject matter of the Inquiry or that he has a *significant* interest in an important aspect of the Inquiry's work.
56. Mr Powell-Davies' application raises a further issue of relevance to the exercise of my discretion whether to make a designation of core participant under rule 5 of the Inquiry Rules 2006: that is the question whether multiple designations of core participant relating to the same issues in the Inquiry are now justifiable. Section 17 (3) of the Inquiries Act 2005 requires me, when making a decision as to the procedure and conduct of the Inquiry to act with fairness and also to have regard to the need to avoid unnecessary cost.
57. In my first Core Participant Ruling of 21 October 2015 and my Opening Remarks of 28 July 2015 I made reference to the investigations carried out by Operation Herne and Mark Ellison QC into allegations made by Peter Francis about the activities of the Special Demonstration Squad. One aspect of Mr Francis' account is an allegation of infiltration of the Lawrence family's campaign for justice by undercover officers. In Operation Herne Report 2 – Allegations of Peter Francis, at page 7, appears the following assertion:

“Peter Francis claims that he targeted Youth Against Racism in Europe (YRE) and Militant Labour. None of the intelligence records attributed to these groups contain reporting on Stephen Lawrence, the Lawrence family or the linked campaigns.”
58. This amounts to public confirmation that intelligence records relating to Youth Against Racism in Europe and Militant Labour do indeed exist. In the course of its work the Inquiry will be examining the allegations of infiltration of anti-racism and anti-fascist organisations by the Special Demonstration Squad, including Youth Against Racism in Europe, and their association, if any, with alleged infiltration of justice campaigns, not just the campaign of Mr and Mrs Lawrence in Category [G] but also those justice campaigns in Category [J].

59. In Core Participant Ruling 4 of 27 January 2016, at paragraphs 14 – 17, I explained my decision to designate David John Nellist a core participant. He was closely associated with the Militant newspaper and was a founding member of Militant Labour, later the Socialist Party. Peter Francis has claimed that while undercover he infiltrated Militant. The Guardian newspaper and Mr Nellist have asserted that Mr Francis was succeeded by “Carlo Neri”. The Inquiry will be examining the infiltration of Militant and the Socialist Party under its terms of reference. Part of that examination will embrace the reporting, if any, of the activities of Militant in the affairs of trades unions, including the National Union of Teachers.
60. It follows that Mr Powell-Davies’ application does not raise fresh subject matter for investigation, either as to the fields in which targeting of political activists took place or as to personal relationships made by undercover officers with an applicant.
61. Mr Powell-Davies has provided no explanation for the lateness of his application for designation. However, I have considered his application on its merits. I do not find that Mr Powell-Davies has met the threshold under rule 5 of the Inquiry Rules 2006 to justify his designation as a core participant. Furthermore, as to the exercise of my discretion, it is my view that the subject matter in which Mr Powell-Davies has played a role is already amply represented in the Inquiry by core participants who have a similar interest to that of Mr Powell-Davies. I shall exercise my discretion against designating Mr Powell-Davies.
62. In common with other applications I do not intend criticism of the applicant. His political and trade union activism are an important part of his personal story. It is perfectly understandable that he wishes to know whether he was personally affected by undercover policing. However, the criteria for designation as a core participant are not established. Mr Powell-Davies’ application will be kept under review.

Anthony Thompson

63. Anthony Thompson is a director of Leeds Social Centre Limited, known as The Common Place, which had its origins in a resolution in 2004 of Leeds Action for Radical Change to set up a meeting centre for the use of political, social and cultural groups. Mr Thompson’s personal involvement began in early 2005 when he assisted to install seats that had been donated by a local cinema. He later set up a group assisting asylum seekers whose work was recognised by the Refugee Council. Mr Thompson says that a person calling herself Lynn Watson became a founding director and treasurer of Leeds Social Centre Limited in 2005.
64. Ms Watson was a signatory to the documents lodged with Companies House that instituted the business of The Common Place and established the limited liability

and statutory responsibilities of the limited company and its directors. Her signature was witnessed by the company's solicitor. In her capacity as treasurer Ms Watson had access to the company bank account, the names and banking details of donors, and lists of members of The Common Place. Mr Thompson says that Ms Watson was influential in the direction taken by Leeds Social Centre Limited following its incorporation. She was a prominent protestor, assisting the mobilisation of members to the G8 conference in Scotland in 2005 and the hosting of the Climate Camp of 2006. Ms Watson left Leeds abruptly in 2008 and was never seen again. The discovery of Ms Watson's deception is one reason given by Mr Thompson for the winding up of the company.

65. Mr Thompson has since learned of the accusation made in the Powerbase web site that Lynn Watson was in fact an undercover police officer, the origin of which is the book written by Rob Evans and Paul Lewis, *Undercover: The True Story of Britain's Secret Police*, 2013, at page 216. It is unnecessary for me to repeat the circumstantial detail provided in the web site that can be found at <http://powerbase.info/index.php/Lynn>.
66. Mr Thompson raises the following issues as suitable for investigation by the Inquiry: (i) whether 'Lynn Watson' was an undercover police officer, (ii) whether her use of a false name on legal documents was authorised, (iii) whether any such authorisation was justified, (iv) what information about members of and donors to The Common Place was reported and for what purposes, and (v) the justification for such reporting.
67. Mr Thompson recognises that he has been in two minds whether to make an application for designation. Finally, and late, he has decided that he needs to make an application to find out exactly how the organisation he supported was subverted and for what purpose.
68. In my view, Mr Thompson's application passes the threshold for designation under rule 5 of the Inquiry Rules 2006. He has established, as a director of Leeds Social Centre Limited, that he played or may have played a significant role in the subject matter of the Inquiry. The matters raised by Mr Thompson are not already within the planned subject matter of the Inquiry and, in my view, they should be.
69. I shall designate Anthony Thompson a core participant in the Inquiry **in Category [L] Social and environmental activists**.
70. I wish, however, to revert to observations made at the beginning of this Ruling. It was not necessary for Mr Thompson to apply for designation as a core participant in order to ensure that the Inquiry was made aware of the issues for investigation that he raises. As I explained in my Opening Remarks, and again in my first Core

Participants Ruling at paragraph 12, and have repeated at paragraph 15 above, it would have been enough for him to contact the Inquiry and make his interest known. Secondly, as I have said at paragraphs 12 and 13 above, depending on the information that becomes available to the Inquiry, I will have to set priorities within the reasonable resources of time and money available. The Inquiry may not uncover every relevant detail of an undercover police operation. The fact that Mr Thompson is designated a core participant provides no guarantee that all the issues that he raises for investigation will be resolved by the Inquiry.

Frances Curran

71. Frances Curran was formerly a member of the Labour Party (elected to the National Executive Committee in 1984) and a supporter of Militant. She became a member of the Socialist Party and founding member of the Scottish Socialist Party. Between 2003 and 2007 Ms Curran was a member of the Scottish Parliament for the West of Scotland region. She was an organiser of the protest outside the G8 Summit at Gleneagles in 2005. In 2007 she took part in a protest at the Faslane nuclear base.
72. The foundation for Ms Curran's application is that as a member of Militant and the Socialist Party in Hackney during a period when Peter Francis was a branch secretary of Youth Against Racism, Mr Francis would have had the opportunity to monitor her activities. She recalls him using the name Johnson.
73. The application for designation was made on 24 November 2016, just under a week after Mr Heron's exchange of emails with the Inquiry concerning the application of Mr Powell-Davies (see paragraphs 51 and 52 above). Unhappily, two factual propositions contradictory of one another are made.
74. At page 6 of the application, it is stated:

"Lawyers from the Public Interest Law Unit met recently with the Guardian journalist Rob Evans. We were advised that over 40 leading members of Militant had files opened on them. Those files were then forwarded back to SDS/Special Branch. We were advised that Frances Curran had a file opened on her by Peter Francis. We understand that in her case this file was not a fresh file, but in fact Peter Francis was merely adding additional and new information to that file."
75. At page 7 the following assertions are made:

"She was under surveillance by Peter Francis throughout the years of his infiltration of the YRE and Militant...."

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We advise the Inquiry that a file was opened by Peter Francis and regular updates were sent to Special Branch. We understand that Special Branch forwarded these to MI5.

76. At page 9 the application states:

“Rob Evans confirms that the information provided by Peter Francis – we understand – was adding to a file already in existence.”

77. It is surprising that, so soon after the email conversation between the Inquiry and Mr Heron as to the precise terms of information said to emanate from Mr Francis, an almost identical contradiction appears in an application concerning the alleged infiltration of Militant and its members. These are important statements on which I am being asked to rely when considering decisions under rule 5 of the Inquiry Rules 2006. I am not prepared to act on factual assertions unless they are carefully and diligently made.

78. No explanation has been provided in Ms Curran’s application as to the reason why it was decided to make the application so late in the day.

79. Nevertheless I shall consider the application on its merits and I shall assume for present purposes that Peter Francis did submit or may have submitted, as alleged, intelligence reports that included reference to Frances Curran, whether “the file” on Ms Curran was started by Mr Francis or not. However, I have no information about the interaction, if any, between the man calling himself Johnson and Ms Curran; nor am I aware of any activity of Ms Curran’s, while she was a supporter of Militant and the Socialist Party in Hackney, that may have been of interest to Peter Francis. I am not, even on the assumption I have made, able at this stage to conclude that Ms Curran played or may have played a *significant* role in part of the subject matter of the Inquiry or that she has a significant interest in an *important* aspect of the Inquiry’s work.

80. I repeat the observations I have made at paragraphs 57 – 59 above in Mr Powell-Davies’ case, as to the interest of late applicants for designation that are common with those of existing core participants. No substantial issue is raised as to the undercover work of Peter Francis or his successor in connection with the targeting of Militant or the Socialist Party and/or Youth Against Racism in Europe that is not already before the Inquiry.

81. I shall not designate Ms Frances a core participant at this time. This is an application that will be kept under review as the Inquiry examines the documentary material provided to it by the police services.

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82. Before I leave this application I should refer to that part of the application that concerns Ms Curran's activity in Scotland.
83. The Inquiry is aware of the fact that the Home Office was approached by some interested person or persons with a view to the enlargement of the terms of reference of the Inquiry to include an examination of undercover operations in Scotland by officers employed by a police force in England and Wales. The Inquiry understands that the Secretary of State declined to amend the terms of reference. This was followed by a request by the Scottish Government to Her Majesty's Inspectorate of Constabulary in Scotland to carry out a review of undercover policing in Scotland. The Scottish Government asked the Inquiry to clarify whether and if so to what extent the Undercover Policing Inquiry would examine the circumstances of undercover operations in Scotland. That clarification was provided by the Solicitor to the Inquiry in correspondence dated 27 September and 10 October 2016.
84. It is said in the application made on Ms Curran's behalf:
- "We submit that Frances Curran was spied upon and subject to ongoing surveillance by Peter Francis..."*
- Whilst not extending its remit to Scotland the Inquiry has a duty, we submit, to establish whether when she returned to Scotland, and as a member of the Scottish Parliament continued to be placed under surveillance."*
85. Attached to the application is a letter from the Justice Minister for Scotland to an unnamed "campaigner" whose name and address, surprisingly in my view, have been redacted from the copy letter. The letter concludes with the following:
- "You may also be interested in seeing the clarification of the Pitchford Inquiry's approach, as provided to the Scottish Government by the Solicitor to the Inquiry:*
- "The Chairman may admit evidence of undercover police activity outside England and Wales because it is relevant to subject matter that does fall within our terms of reference ("relates to part of a wider operational matter that does relate to England and Wales"). It would be part of the narrative of a police undercover operation in England and Wales by an England and Wales police force. What the Inquiry may not do, however, is to apply its investigative obligations under the terms of reference to any undercover activity that took place in Scotland."*
86. The quotation in normal font above is indeed taken from correspondence written by the Solicitor to the Inquiry to the Scottish Government. The bracketed words within

the quotation repeat a form of words used in the Scottish Government's enquiry of him to describe the writer's understanding of the Inquiry's position.

87. I do not propose, at this stage, to respond to the "submission" made on Ms Curran's behalf as to the "duty" owed to her by the Inquiry save to put her solicitor on notice that I endorsed the terms of the Solicitor to the Inquiry's clarification before his letter was sent to the Scottish Government, and they continue to represent my view. A decision as to the practical effect of the limit placed upon the Inquiry by its terms of reference will have to await appropriate circumstances.

Joseph Batty

88. An application for designation as a core participant by Joseph Batty, using the cipher 'James Rennie', was refused in my [Core Participant Ruling 4](#), dated 27 January 2016.
89. At the time of his first application Mr Batty was represented by Jules Carey of Bindmans LLP. In his application it was said that the applicant was a member of the Socialist Party and was involved in anti-fascist activity with Youth Against Racism in Europe. He "believes he met" Carlo Neri in 2000 and "feels he knew" Carlo Neri reasonably well by September 2002. Carlo Neri acted as a steward at events organised by Youth Against Racism in Europe, although he could not recall which events. They stewarded demonstrations together in 2002 and 2003. They socialised together, became friends and shared the same political and social circles.
90. The applicant asserted that on one New Year's Eve, at a house Carlo Neri was sharing with 'Andrea', he "attempted to cajole several people, including the applicant, to petrol bomb one of the shops referenced in a Guardian article headlined *"Two 'Catholic' charities linked to Nazis, says report"*". Nothing came of Carlo Neri's alleged exhortation.
91. The applicant said that he moved to Manchester in 2004 and lost touch with Carlo until they met in London with others for a meal in May 2005. He heard nothing more from Carlo Neri before he learned that he had been an undercover police officer "through the work of the Undercover Research Group".
92. The Undercover Research Group had gathered information about "Carlo Neri" from several sources during 2015 and published its exposé on 18 January 2016 (See <http://undercoverresearch.net/2016/01/18/how-we-proved-carlo-neri-was-an-undercover-police-officer/>).
93. As to the applicant's own interest in the activities of Carlo Neri the application concluded:

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“Mr Rennie was upset and angry when he found out Carlo was working as an undercover police officer, he had thought they had a real and good friendship which he had invested time in over the years. He felt violated when he thought about the information he had divulged about his feelings and views on people, relationships, jobs, money and life in general, to somebody who had no interest in him as a friend but instead a potential source of information on family, friends and political contacts. The applicant does not understand why he was a target for the level of intrusion he experienced.”

94. In Core Participant Ruling 4 I accepted that Mr ‘Rennie’ had played a direct role in part of the subject matter of the Inquiry and that he had an interest in an important aspect of the Inquiry’s work. However, I continued at paragraph 12:

“The nature of the police operations that the Inquiry will examine makes it inevitable that the Inquiry will be inquiring into the interaction between undercover police officers and members of a target group. The Inquiry will examine the justification for the targeting of those groups and of some individuals within them. It will also examine the effect of those undercover operations upon members of the public. However, I have to keep a sense of proportion. If I was to designate as core participant every applicant who moved in the same circles as an undercover officer as part of their target group I would be failing to have sufficient regard for the rule 5 criteria. At paragraph 10 of the first Core Participants Ruling I indicated that I intended to be inclusive so as to ensure that as wide a range of interests as possible was represented. Youth Against Racism in Europe is already represented at the Inquiry. By my designation in the case of Dave Nellist (below) the alleged targeting of the Socialist Party will also be examined.”

95. The present application, made in Joseph Batty’s real name, relies on the same underlying assertions of participation in political and anti-fascist campaigning with Carlo Neri and others that were the foundation of his first application for designation. He also relies, as he did before, on his account of Carlo’ Neri’s repeated remarks concerning a Catholic charity shop that appeared, on reflection and in hindsight, to be encouragement to carry out an attack on the premises. At the time, Mr Batty says, he had treated Carlo’s remarks as mere bravado. The author of the present application writes, at page 8:

“It is our view that not only should this matter in particular be investigated by the Inquiry, but that another theme needs to be considered. From Jim Bowling [sic] to Caro Neri there appears to have been a number of

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attempts by undercover officers to engage in activities to provoke criminal offences, and in both of these cases highlighted extremely serious criminal offences.”

96. No explanation is given for this second late application for designation as core participant. It seems to me that nothing of substance has changed, save that Mr Batty does not now wish his application to be treated anonymously. I shall not designate Joseph Batty a core participant in the Inquiry.
97. However, the matters that Mr Batty has raised, including his allegations of Carlo Neri’s provocative conduct, will be investigated. His application will be kept under review.

15 December 2016

Sir Christopher Pitchford
Chairman, Undercover Policing Inquiry