

In the matter of Section 19 of the Inquiries Act 2005

Application for a restriction order by 'Jane'

'Minded to' note

1. On 6 September 2016 I designated 'Jane' a core participant in **Category [I] Miscarriage of Justice** and **Category [H] Individuals in relationships with undercover officers**. Jane was given anonymity provisional upon the making of a written application for a restriction order.
2. There are two recognised legal representatives acting on Jane's behalf in the Inquiry. The reasons for designation of two legal representatives appear in my Recognised Legal Representatives Ruling 10, also of 6 September 2016.
3. The [application for a restriction order](#) was made on 17 October 2016, supported by a witness statement of the same date, made by Harriet Wistrich, who represents Jane in Category [H] work.
4. The application is made under both paragraphs (a) and (b) of section 19(3) of the Inquiries Act 2005. It is contended that:
 - (i) It is unnecessary and would be disproportionate, in pursuit of the legitimate aims of the Inquiry, to permit disclosure or publication of the applicant's personal details when she was the alleged victim of gross sexual impropriety by a former undercover police officer using his cover name (she alleges that she was arguably a victim of sexual crime); an appropriate restriction order is required upon an application of section 19(3)(a) of the Inquiries Act 2005, so as to ensure compliance with section 6 of the Human Rights Act 1998 and Article 8 of the European Convention on Human Rights and Fundamental Freedoms;
 - (ii) There is no or no significant public interest in the disclosure or publication of Jane's personal details; the public interest is in the receipt of her evidence of her experience; the making of a restriction order would be conducive to the fulfilment of the Inquiry's terms of reference and in the public interest under section 19(3)(b) of the Inquiries Act 2005.
5. Long after the events that will be the subject matter of Jane's evidence, her personal circumstances, her private and family life, have significantly changed. In my provisional view, she has a compelling interest in protecting her current private and family life from the effects of exposure to publicity that, it is likely, would be damaging.

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6. Jane's position is similar to that of several applicants who were the subject of my ['Minded to' note of 10 August 2016](#), in which, between paragraphs 43 and 49, I analysed features that were common to the cases of women who had, they alleged, been in deceptive relationships with undercover officers. In my view, the same considerations apply to Jane and I need not repeat them.
7. I am minded to make a restriction order in the terms of the draft which appears at Appendix A. This note will appear on the Inquiry's website. If within 14 days the Inquiry receives no written objection, a restriction order is likely to be made in the terms of the draft. If a written objection is received I will issue further directions.
8. In my 'Minded to' note of 10 August 2016, commencing at paragraph 78, under the title **Practical considerations**, I dealt with the possible need to make limited disclosure in order, fairly and practicably, to receive the evidence of witnesses who had been granted restriction orders that provided anonymity. The draft order at Appendix A has been drawn with those practical considerations in mind. I also pointed out that circumstances may change and that, as Ms Wistrich anticipates in Jane's application, the Inquiry will need to give further attention to the conditions under which the applicant provides written and oral evidence.

11 May 2017

Sir Christopher Pitchford
Chairman, Undercover Policing Inquiry

**APPENDIX A
TO THE 'MINDED TO' NOTE DATED 11 MAY 2017**

PENAL NOTICE

IF ANY PERSON DISOBEYS THIS ORDER, THE MATTER MAY BE CERTIFIED TO THE HIGH COURT WHICH MAY HOLD THAT PERSON TO BE IN CONTEMPT OF THE INQUIRY AND THAT PERSON MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED

ANY PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS ANY PERSON TO BREACH THE TERMS OF THIS ORDER MAY ALSO AFTER CERTIFICATION TO THE HIGH COURT BE HELD TO BE IN CONTEMPT OF THE INQUIRY AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED

RESTRICTION ORDER UNDER SECTION 19 OF THE INQUIRIES ACT 2005

UPON the Chairman having considered an application dated 17 October 2016, together with its supporting evidence, by Birnberg Peirce & Partners for a restriction order in respect of a core participant here described as '**Jane**'

AND UPON the Chairman being satisfied, for the reasons given in his 'Minded to' Note dated 11 May 2017, that there would be a disproportionate interference with Jane's private life in the event of the publication of Jane's real identity, or of the disclosure of Jane's real identity beyond that which is necessary to ensure the fulfilment of the Inquiry's terms of reference

AND UPON the Chairman considering his power to make a restriction order under s.19(2)(b) of the Inquiries Act 2005 read with s.19(3) thereof

IT IS ORDERED THAT until further order

1. This order binds all persons (whether acting by themselves or by their servants or agents or in any other way) and all companies (whether acting by their directors or officers, servants, agents, or in any other way).

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2. There shall be no disclosure or publication made of any evidence or document given, produced or provided to the Inquiry which discloses Jane's true identity (including any description or image capable of identifying Jane).
3. There shall be no disclosure or publication made of any evidence or document given, produced or provided to the Inquiry which has the effect of disclosing Jane's true identity, or contributing to such disclosure, and which the person responsible for the disclosure or publication knows or suspects will have that effect.
4. This order does not prohibit any disclosure to:
 - a. Members of the Inquiry team;
 - b. Members of Jane's approved legal team;
 - c. Any medical or healthcare professional consulted by Jane;
 - d. A person providing evidence to the Inquiry, whether written or oral, who had contact with Jane in connection with their service in a police force;
 - e. A person from whom evidence is sought by the Inquiry, whether written or oral, pertaining to the contents of a document which reveals the true identity of Jane (for example, a person who was or who is believed to have been the author or a recipient of such a document);
 - f. A person who, in the course of their current employment, is requested by the Inquiry, or on behalf of the Inquiry, to search for and/or make arrangements for the disclosure of documents to the Inquiry which contain reference to the true identity of Jane; or
 - g. The legal advisers to any person described at (d), (e), or (f) above, whose names will be notified in writing to the Inquiry in advance of any disclosure being made.
5. For the avoidance of doubt, any person to whom disclosure of the true identity of Jane is made in accordance with paragraph 4 above remains subject to the prohibitions at paragraphs 2 and 3 in relation to any onward disclosure or

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publication, save insofar as, and only to the extent that, such disclosure is made to another person or persons identified within paragraph 4.

6. Any person affected by any of the restrictions set out in paragraphs 2 and/or 3 above may apply to the Chairman to vary this order.

Sir Christopher Pitchford
Chairman, Undercover Policing Inquiry

[date]

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