

# **UNDERCOVER POLICING INQUIRY**

## **TWO YEAR UPDATE**

**JULY 2017**

## 1. FOREWORD FROM THE CHAIRMAN, SIR JOHN MITTING

- 1.1 This inquiry was set up due to serious and widespread concerns about the behaviour and the use of undercover police officers. Our task is to discover the truth about undercover policing across England and Wales and to assess the adequacy of the legal and policy framework under which it is conducted.
- 1.2 We are wholly independent of the police and have the authority to investigate any aspect of undercover policing, from 1968 to the present day.
- 1.3 We are now gathering evidence about the activities of undercover police officers, of how they were selected and trained, of how and of why they were deployed, of what they did whilst deployed, of who supervised them, of how undercover policing has been managed and regulated, of what was done with undercover police officers' reports, of what was known within Government about undercover policing, of what effect undercover policing has had on individuals, including the officers themselves, and of what the contribution of undercover policing has been to the prevention and detection of crime.
- 1.4 We believe these investigations will reveal both creditable and discreditable conduct in undercover operations within police in forces across England and Wales. The Inquiry anticipates that former undercover police officers, their superiors, some members of the public and witnesses from government will provide evidence to the Inquiry.
- 1.5 It is important to recognise that our work is uniquely sensitive. Never before has undercover policing been subject to the rigour of independent public examination. The secret work of public servants and interferences with the private lives of members of the public will both form a key part of our investigations.
- 1.6 Our work will always be rigorous, objective and open where possible. Wherever possible we will take evidence in public. However, we recognise it may impact on people with known and hitherto unknown connections, to undercover policing. As a result, we are obliged to proceed with proper care and attention to the rights and to the welfare of these diverse individuals.
- 1.7 To support this approach, the Inquiry has invested time deciding important preliminary issues to determine the core principles that will be applied. These early decisions will help navigate complex issues such as individual applications for anonymity made by core participants and witnesses. People can now come forward and give full and frank evidence to the Inquiry knowing that their evidence cannot be used against them in criminal proceedings. In addition, we have devised processes to help the Inquiry handle sensitive issues such as the use of the identities of deceased children by undercover police officers. In order to analyse a very large volume of secret material efficiently and effectively, we have procured bespoke secure information technology

systems. With these principles, processes and resources now in place, the Inquiry will make more visible progress.

- 1.8 We expect to begin to make anonymity decisions in relation to former Special Demonstration Squad undercover police officers and, where needed, to begin to hold anonymity hearings in relation to them in October 2017. We intend that the process of making anonymity decisions in relation to all former members of the Special Demonstration Squad should be complete soon after the beginning of 2018; and of former members of the National Public Order Intelligence Unit soon thereafter. Meanwhile the Inquiry team continues to grow as we collect and consider relevant documentation, including witness statements, ahead of public hearings which are currently expected to begin in 2019.

## 2. SCOPE AND APPROACH

### Scope

- 2.1 The scope of the Inquiry is determined by its terms of reference, which state:

*The Inquiry's investigations will include, but not be limited to, whether and to what purpose, extent and effect undercover police operations have targeted political and social justice campaigners. The Inquiry's investigations will include, but not be limited to, the undercover operations of the Special Demonstration Squad and the National Public Order Intelligence Unit.*

*For the purpose of the Inquiry, the term "undercover police operations" means the use by a police force of a police officer as a covert human intelligence source (CHIS) within the meaning of section 26(8) of the Regulation of Investigatory Powers Act 2000, whether before or after the commencement of that Act. The terms "undercover police officer", "undercover policing", "undercover police activity" should be understood accordingly. It includes operations conducted through online media.*

*The Inquiry will not examine undercover or covert operations conducted by anybody other than an English or Welsh police force."*

- 2.2 These terms of reference are very wide ranging and the Chairman has a wide discretion about how to fulfil them. To date, 205 people and organisations have been identified and designated as core participants. Of these, 183 are non-police, non-state core participants who have, or may have been, impacted by the operation of undercover policing.
- 2.3 Undercover policing should not be confused with police surveillance, overt or covert, or other forms of police intelligence-gathering activity. An individual or organisation subject to police surveillance or intelligence may or may not have been subject to undercover policing as defined by the Inquiry's terms of reference.
- 2.4 In his opening statement in July 2015, the previous Chair summarised the scope on the Inquiry thus:

*This Undercover Policing Inquiry will investigate the practice of undercover policing in England and Wales from 1968 to the present. Undercover policing has, of course, been used for preventing and detecting other forms of serious crime for many years. This Inquiry will investigate the evolution of undercover policing for all purposes, not just in the Metropolis but throughout England and Wales. It is to be noted that the Inquiry will not consider undercover policing in Scotland or Northern Ireland and it will not consider undercover activity managed by any agency other than the police forces of England and Wales.*

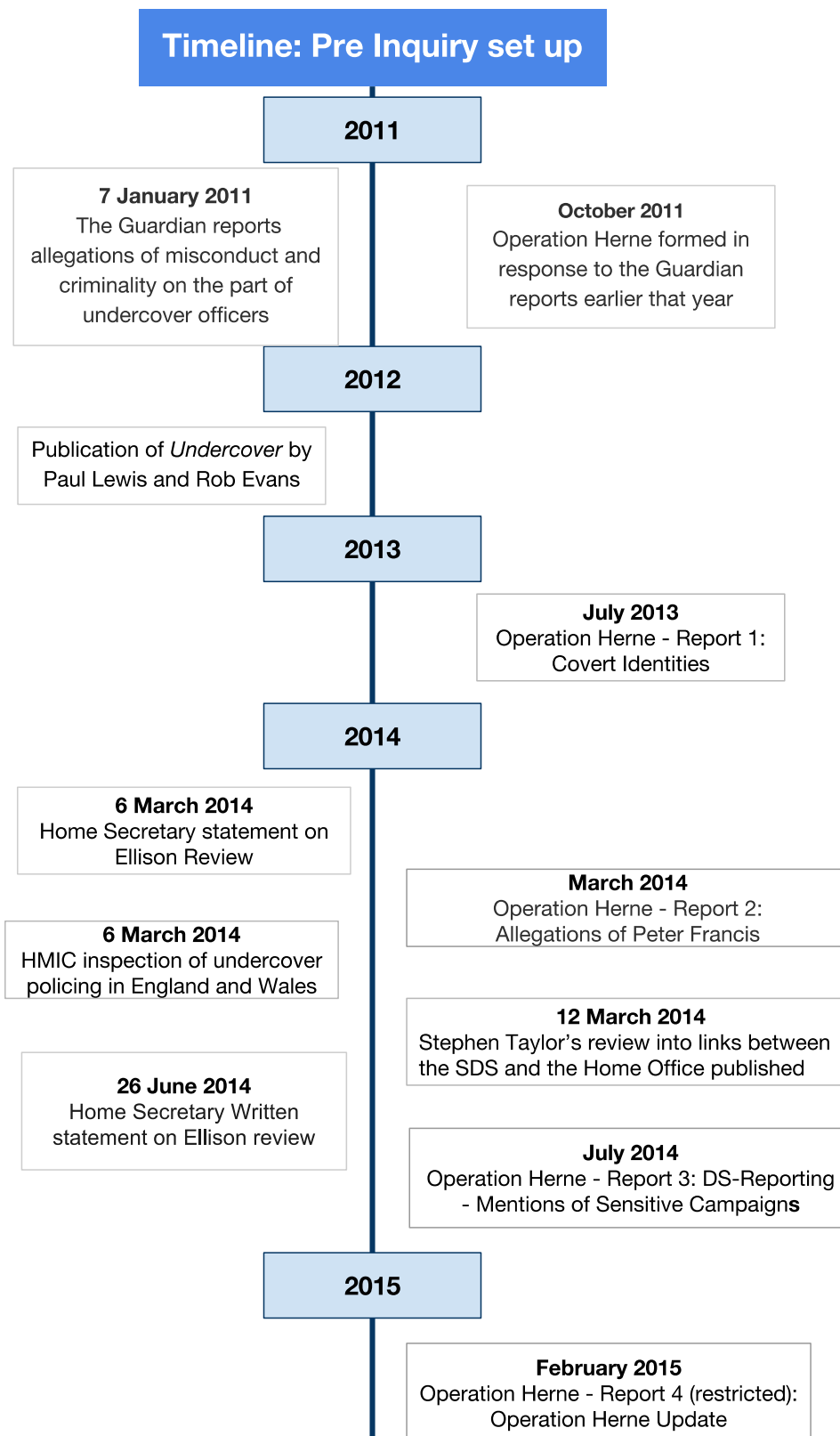
- 2.5 The activities of the Special Demonstration Squad and the National Public Order Intelligence Unit have a particular prominence in this Inquiry. Both merited specific mention in the terms of reference and it was the activities or alleged activities of some officers from these units which caused sufficient public concern to warrant a full statutory public inquiry. Accordingly, the investigation of these two units is a priority for the Inquiry. We are proceeding on the basis that the activities of these two units will be investigated more intensively than undercover policing in other police forces.
- 2.6 Despite this, the Inquiry's work is not restricted to the Special Demonstration Squad and the National Public Order Intelligence Unit. For example, the Inquiry is investigating the Animal Rights National Index, which pre-dated the National Public Order Intelligence Unit. These investigations are likely to shed light on how the latter body came to exist in the form it did, with the remit and with the practices that it followed. Similarly, the Inquiry is investigating the National Domestic Extremism Unit, and other units which post-date the National Public Order Intelligence Unit. These investigations are necessary in order to understand what has happened since the demise of the latter unit in or around 2010. The investigations will lead the Inquiry up to the present day.
- 2.7 The Inquiry is also seeking to establish if regional Special Branch or other units ran undercover police operations similar to the Special Demonstration Squad.
- 2.8 Undercover policing more generally, as conducted by all police forces in England and Wales (including the Metropolitan Police Service, regional units and national units), also falls within the Inquiry's terms of reference. Very often, this sort of undercover policing has been targeted at serious and organised criminals. The Inquiry is adopting a different, less intensive approach to its investigation of this form of undercover policing to allow the primary focus to remain on the Special Demonstration Squad and the National Public Order Intelligence Unit. However, work on undercover activity in other forces remains an important part of the Inquiry's work.
- 2.9 The Inquiry has invited disclosure from all police forces in England and Wales of both good and bad examples of undercover policing activity. The Inquiry is taking steps to verify that the disclosure it has received has been both full and frank. Individual case studies that have merited further investigation have been followed up by the Inquiry team.
- 2.10 As a result of this disclosure, the Inquiry has received evidence of productive undercover police operations that have been instrumental in bringing dangerous criminals to justice, and evidence of conduct giving cause for concern.

## **Approach**

- 2.11 In order to report as soon as possible, the Inquiry has adopted an approach intended to allow a breadth of evidence in some areas, and a depth of evidence in others. We recognise that some undercover policing units merit more intensive scrutiny than

others. Striking a balance of approach is a matter of judgment for the Chairman and will depend upon what evidence the Inquiry uncovers through its investigations. So far, the Inquiry has decided that it should obtain at least a witness statement from every surviving member of the Special Demonstration Squad able to provide one. Our intention is to take the same approach to former undercover officers from the National Public Order Intelligence Unit and all significant managers, cover officers and support staff from that unit. Once we have evidence from officers and former officers we will be in a good position to take evidence from other witnesses who have been impacted by undercover policing.

### 3. INQUIRY PROGRESS



## Timeline: Post Inquiry set up

2015

**12 March 2015**

Home Secretary announces intention to establish undercover policing Inquiry

HMIC & College of Policing published inspections and guidance on u/c

**July 2015**

Terms of reference published and opening remarks by Chairman, Sir Christopher Pitchford

**7 Oct 2015:** Core participants

*Preliminary hearing on decisions for core participant status for those providing evidence to the Inquiry as witnesses*

**4 Nov 2015:** Legal representation

*Preliminary hearing on legal representation for core participants*

2016

**20 April 2016**

MPS announce investigation into 1987 bombing of Debenhams store

**22/23 Mar 2016:** Restriction orders

*Preliminary hearing on legal approach to anonymity (restriction orders) for those providing evidence to the Inquiry as witnesses*

**June 2016 Update note**

**27 July 2016**

First ruling on anonymity (Cairo)

**27 Apr 2016:** Undertakings

*Preliminary hearing to hear representations regarding undertakings / immunity from prosecution for those providing evidence to the Inquiry as witnesses*

**August 2016 Update note**

**13 September 2016**

Ruling on anonymity for 23 non-police, non-state core participants

**22 Jun 2016:** Deceased children's identities

*Preliminary hearing to hear representations from those affected by the use of deceased children's identities by undercover police officers*

**November 2016 Update note**

2017

**8 February 2017**

MPS announce IPCC investigation into document destruction at MPS

**5/6 April 2017:** Metropolitan Police Service Applications

*Preliminary hearing to hear representations following request from Metropolitan police regarding anonymity applications and terms of reference of the Inquiry*

**20 February 2017**

Personal statement from the Chairman of the Inquiry, Sir Christopher Pitchford

**31 May 2017**

Sir John Mitting appointed Inquiry panel member

**March 2017 Update note**

**June 2017: Update note**

**July 2017**

Resignation of Sir Christopher Pitchford  
Sir John Mitting confirmed as new Chairman



## 4. INQUIRY PROGRESS

- 4.1 The work of the Inquiry is highly sensitive and we are aware of the need to proceed with proper care and attention to the rights and to the welfare of a diverse range of individuals.
- 4.2 To support our approach, the Inquiry has invested time in determining the core principles of the Inquiry. In addition, we have devised processes to help handle sensitive issues such as the use of the identities of deceased children by undercover police officers. Details of the Inquiry's progress in some of these key areas is set out below.

### Core participants

- 4.3 In 2011 media reports made allegations of misconduct during undercover operations by a unit within the Metropolitan Police Service called the Special Demonstration Squad. These reports followed evidence brought to the press (in a large part) by some of those who are now known by the Inquiry as non-police, non-state, core participants and it is these core participants who have driven a campaign to get to the truth. The Inquiry will need to seek evidence from all parties with evidence pertinent to its terms of reference; state bodies, police bodies, regulatory bodies, and those who were affected by undercover policing activities. All have an important role to play, although not all those who are to be witnesses need to be core participants.
- 4.4 A core participant is a person or organisation designated by the Inquiry Chairman under Inquiry Rules 2006. The purpose of core participants is to give those most intimately concerned with the work of the Inquiry the means to participate effectively. In deciding whether to designate a person or organisation as a core participant, the Chairman considers (among other things) whether the person has played, or may have played, a direct and significant role in relation to the matters the Inquiry is considering, or whether the person has a significant interest in those matters. The Chairman also considers whether the person may be subject to significant or explicit criticism during the proceedings of the Inquiry, or in the report when it is written. Core participants need not be core participants 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.
- 4.5 Core participants will have the right to make an opening and closing statement at the hearings of the Inquiry and, if legally represented, to seek permission to ask questions of a witness. Those with a core interest are consulted on various issues and are provided with advance sight of open evidence relevant to their role in the matters that the Inquiry is considering to help them to prepare for the evidential hearings.

- 4.6 The Inquiry held a hearing on core participant status in October 2015. The Chairman has, to date, made 13 rulings designating a total of 205 core participants. Two more applications will be the subject of decisions to be published during the week commencing 31 July 2017. Further applications may well be received, for example from persons who become aware that they have been significantly affected by undercover policing or from undercover police officers with a core involvement in the events which the Inquiry is investigating.
- 4.7 In some cases, core participants can also have their reasonable legal costs paid. To date, 180 core participants are in receipt of funding from the Inquiry for their legal representation.
- 4.8 Core participants to the Inquiry come from a diverse range of interests. The Chairman sought to categorise those interests in his [ruling of 21 October 2015](#) as follows:
- [A] Police institutions
  - [B] Government
  - [C] Police officers
  - [D] Political organisations and politicians
  - [E] Trades unions and trades union members
  - [F] Relatives of deceased children
  - [G] The family of Stephen Lawrence, Duwayne Brooks OBE and Michael Mansfield QC
  - [H] Individuals in relationships with undercover officers
  - [I] Victims of miscarriage of justice
  - [J] Justice campaigns
  - [K] Political activists
  - [L] Social and environmental activists
  - [M] Families of police officers
  - [N] Other applicants
- 4.9 A full list of core participants appears on the Inquiry's [website](#).

### **Pathway to evidence hearings**

- 4.10 The Chairman made his opening remarks on 28 July 2015. Work has since continued on the initiation of the Inquiry's investigations, including taking witness statements, gathering documents, and corresponding with many of those who have a story to tell, including those who have already responded to the Chairman's call for evidence. Evidence gathering is well underway, however, until the legal processes involved in applying for restriction orders have been completed, the Inquiry cannot make public much detail of what it has found.

- 4.11 In order to be ready for evidence hearings, the Inquiry needs to:
- i. Complete paper investigations into the officers involved – gathering the documents it needs from wherever they can now be found, and reading and analysing them.
  - ii. Complete the anonymity process for officers.
  - iii. Complete the restriction order processes in relation to the documents.
  - iv. Identify those who will need to be witnesses.
  - v. Gather together the documents that each witness (whether officer or civilian) will need to draw on to make a statement and invite or request witnesses to provide statements.
  - vi. Complete the restriction order processes in relation to the statements to ensure appropriate information is put in the public domain – see the section on restriction orders below.
  - vii. Provide written evidence to be used at the hearing, including witness statements and documents, to the core participants involved.
  - viii. Prepare to hear opening statements, which legal teams will need time to prepare after they have seen the written evidence.
- 4.12 The anonymity and restriction processes are lengthy and complex. Further information about these is set out below.
- 4.13 Hearings themselves will look at both written and in person evidence from witnesses. It is not anticipated that EVERY case of undercover policing will require an evidence hearing. In order to deliver its findings as soon as is practicable it will be important that the approach the Inquiry takes to the breadth and depth of investigation is limited to that which is necessary to discharge its terms of reference.
- 4.14 In hearings, both open and closed, undercover police officers will give evidence about their deployments, likely to include evidence about how they were selected, their training, which groups they infiltrated, why they understood they were so tasked, what they did during their deployments, any problems that occurred, their treatment post deployment, their welfare. Evidence is likely to include information about the management of deployments. Others affected by the undercover deployments will also be called to give evidence about their experience.
- 4.15 Evidence from cover officers and others who managed, tasked and had day to day welfare responsibility for an undercover officer will be heard in later hearings dealing with the management and oversight of undercover policing. So too will the evidence of senior managers, regulators and witnesses from government departments.

## **Gathering of evidence (assurance process & protocols)**

- 4.16 The broad scope of the Inquiry and the nature of its subject matter make it impracticable for it to acquire every document potentially relevant to undercover policing in England and Wales between 1968 and the present. Instead, our approach is to target and acquire all material likely to be of real help with the terms of reference. For example, early on in our work, the Inquiry sought and has since obtained all of the Special Demonstration Squad's records from Operation Herne.
- 4.17 The practical difficulty, especially in relation to intelligence reports, is not only the sheer volume of material, some of which is in hard copy, but the fact that intelligence reports may be deliberately written so as to conceal their source ("sanitised"). Accordingly, intelligence reports have to be very carefully scrutinised to ensure relevant material is sifted from irrelevant material. Identifying relevant intelligence reports is being addressed by the Inquiry on an officer by officer basis.
- 4.18 Because it is impracticable physically (or electronically) to acquire every potentially relevant document, the Inquiry has sought assurances and information from the Metropolitan Police Service and other police forces from an early stage about the steps which they are taking to prevent potentially relevant material from being destroyed before the Inquiry obtains it. Work to secure document assurance continues, and further evidence is being provided by the Metropolitan Police Service. Any concerns in this area have been followed up by the Inquiry.
- 4.19 The area of greatest concern in terms of records being available to the Inquiry is the Counter Terrorism Policing - National Operations Centre (one of the units which succeeded the National Public Order Intelligence Unit). As is now well known, this body is currently under investigation by the Independent Police Complaints Commission in relation to document destruction in 2014, that is, after the Inquiry was announced, but a year before the Inquiry's opening statement. It is not yet known if any of the documents which were destroyed related to undercover policing.
- 4.20 The Inquiry has requested and been provided with a number of witness statements explaining the steps which the Metropolitan Police Service has taken to ensure the preservation of potentially relevant documents. The Inquiry has, during the course of 2016 and into 2017, obtained a series of signed witness statements as a result of its concerns about this unit's document retention. These statements are in the process of being prepared for publication on the website in redacted format.
- 4.21 The Inquiry has also sought and obtained confirmation that available mirror images of the National Counter Terrorist and Police Operations Centre's database are being securely held.
- 4.22 To avoid prejudicing the investigation by the Independent Police Complaints Commission, there is nothing further to say on this at the present time, except that the

Inquiry is closely following the progress of the Independent Police Complaints Commission investigation.

## **Witnesses**

- 4.23 A witness, for the purposes of the Inquiry, is any person who the Inquiry intends to take evidence from. All witnesses who provide evidence will be expected to provide a witness statement. The evidence of a witness may also be given orally, at a hearing. In the course of our work, the Inquiry will take evidence from a wide range of people, extending well beyond the ranks of those who have been granted core participant status. The Inquiry continues to welcome contact from those who have evidence relevant to its terms of reference.
- 4.24 It is important to note that the Inquiry is required, by the Inquiry Rules 2006, to seek a witness statement by way of formal rule 9 request. Requests for evidence will either be sent to the witness's legal representative or directly to the witness themselves. The request will set out a description of the matters to be covered by the statement and will set a time limit for responding to the request with the statement.
- 4.25 The Chairman does have the power to compel the production of evidence, under section 21 of the Inquiries Act 2005, but our hope is that this power will only be rarely used. A witness who has been sent a rule 9 request asking for a witness statement may draft the statement with their legal representative or may draft it without assistance. Alternatively a witness may ask for a meeting with one of the Inquiry solicitors (also attended by their legal representative, if they have one).
- 4.26 It is very important to the Inquiry's independence that the evidence is provided from the witness directly.

## **Witness statements, issues lists and oral questioning**

- 4.27 The Inquiry has published, and is [presently consulting on](#), a draft witness statement protocol dealing with the format in which witness statements should be provided to the Inquiry. This will set out guidance for the structure and formatting of witness statements to be provided to the Inquiry.
- 4.28 It is important that witnesses understand that they should provide comprehensive evidence in their statements, and should not omit details that they do not wish to be published. Whether or not the content of the statement may be published is a matter which the Chairman will consider, under his power to restrict evidence, once the statement has been completed and signed.

## **Investigating the Special Demonstration Squad**

- 4.29 The Inquiry's terms of reference commence at 1968, the year that the Home Office approved the formation by the Metropolitan Police of the Special Operations Squad. It

is said that the Squad was formed for the specific purpose of infiltrating groups that may have been planning incidents of major public disorder.

- 4.30 Investigation of the Special Operations/Demonstration Squad has been the Inquiry's first priority to date. Its activities are central to the Inquiry and it is likely that evidence from witnesses who worked as field officers for this unit will be a core part of the first set of the Inquiry's evidence hearings.
- 4.31 The Inquiry has been greatly assisted by the existence and co-operation of Operation Herne, which has done a good deal of investigatory work into this unit.
- 4.32 With the assistance of the Metropolitan Police Service, the Inquiry has sought to progress its investigation of the Special Demonstration Squad in the following ways:
- Analysis of material provided to the Inquiry electronically. In particular, the Inquiry is now pursuing officer-by-officer investigations.
  - Receiving obviously important documents in hard copy from the Metropolitan Police Service.
  - Obtaining electronic copies of the evidence held by Operation Herne about this unit, including the unit's records and the interview notes and witness statements obtained by Operation Herne.
  - Visiting Operation Herne to inspect documents *in situ*, including using their information technology to access material stored electronically.
  - Visiting New Scotland Yard to use police computers to view material copies of which have been provided electronically by the Metropolitan Police Service to the Inquiry.
  - Visiting the Intelligence Management and Operations Support system to inspect and then request records from Special Branch (now SO15).
  - Requesting and/or inspecting documents from third party bodies which are relevant to the units in question.
  - Commencing restriction order work (manually) in respect of the content of selected and obviously important documents.
- 4.33 One feature of the evidence assessed by the Inquiry is that the further back in time the investigation goes the thinner the documentary record is.

### **Investigating the National Public Order Intelligence Unit**

- 4.34 Investigating the National Public Order Intelligence Unit is also complex. Personnel were drawn from police forces across the country (the Special Demonstration Squad were drawn from Metropolitan Police Special Branch). Lead responsibility for the National Public Order Intelligence Unit rested, for a period, with the Association of Chief Police Officers, an entity which is now defunct. The ongoing work of Operation Elter, the police's own investigation of the National Public Order Intelligence Unit, is

not as advanced as that of Operation Herne. Potentially relevant documents on the National Public Order Intelligence Unit are held by a wide range of persons.

- 4.35 The Inquiry does however have access to Operation Elter and continues to inspect documents *in situ* at Operation Elter's premises. The Inquiry has received electronic copies of significant quantities of documents from Operation Elter which are being analysed. Officer-by-officer investigations are also underway. The Inquiry has also located and requested relevant documents held by a number of state bodies.

### **Management and oversight of undercover officers**

- 4.36 Module Two of the Inquiry is examining the systemic issues affecting the deployment of undercover police officers during the period under consideration. These will include institutional issues such as the adequacy of justification, authorisation, governance and oversight. The Inquiry will also investigate the selection criteria, training, management and care of undercover police officers. This will include consideration of the statutory regulation, policy guidance and judicial oversight of undercover policing activity. The role of Her Majesty's Government, and especially the Home Office, will be considered as part of this module.
- 4.37 Work in this area has, from a very early stage, been running in tandem with the work looking at undercover policing activities themselves. The Inquiry has requested witness statements and documents from a very wide range of public bodies including the Home Office, the National Police Chiefs' Council, the Office of Surveillance Commissioners, the Crown Prosecution Service, the National Crime Agency, Her Majesty's Inspectorate of Constabulary and the College of Policing. The Inquiry has been working through the material which has been produced and is making provisional decisions about necessity and making requests to follow up responses where necessary. The Inquiry has so far either inspected on site or received and reviewed thousands of documents potentially relevant to Module Two. Applications for restriction orders have been made in many cases and we are awaiting the full implementation of the Inquiry's secure database before these applications can be substantially progressed. Work has also begun to identify individuals who have been involved in the selection, training, guidance and oversight of undercover police officers and policing in order to obtain first witness statements to inform the Inquiry's ongoing investigations for the purposes of Module Two.
- 4.38 The Inquiry is aware of the revised guidance that was produced by the College of Policing in June 2016 and will examine this as part of its work in this area.

### **Anonymity applications: Special Demonstration Squad**

- 4.39 A very large number of serving and former undercover police officers are applying to the Inquiry Chairman for orders permitting them to give evidence anonymously, or using only the cover name that they adopted whilst undercover. As these applications

are so central to the way that the Inquiry will be able to consider evidence, it is essential for them to be dealt with first.

- 4.40 The Inquiry is aiming to be as public as possible in its approach to the evidence. The legal principles which will be applied to applications for anonymity are set out in a [detailed ruling](#) which was issued by the Inquiry Chairman on 31 May 2016. Making or refusing to make a restriction order in respect of the cover name of an undercover police officer is a critical decision which affects the scope and nature of the evidence which can be obtained and publicly examined by the Inquiry.
- 4.41 If an officer's cover name can safely be published then the Inquiry **can solicit evidence from members of the public** who might have been affected by that officer's activities. There is reason to suppose that in some cases at least potentially very important evidence may only come to light if an officer's cover name is published.
- 4.42 If an officer's cover name can safely be published then the officer's witness statement can be released to the public and the Inquiry **can call and question the officer to give evidence in a public hearing** (with protections if these are necessary). This is obviously preferable to evidence being given either behind closed doors or only to a select few.
- 4.43 By contrast, the provision of evidence by some former undercover police officers under a cypher may limit the evidence which can be given by or about them without undermining the purpose of using a cypher.
- 4.44 Very significantly, the question of anonymity does not affect simply the question of whether an officer can meaningfully give evidence in public, whether orally or in writing. **Anonymity also has important ramifications when it comes to considering the publication of documents** (e.g. minutes of weekly debrief meetings, deployment authorisation forms, notes made by undercover officers, intelligence reports). If an evidence based risk assessment has led to the imposition of a cypher because publication of the cover name would lead to an unacceptable risk of harm, then that has to be taken into account when documents are considered for publication. The Inquiry then has to redact or gist such content of any document that might lead to the identification of the officer in question.
- 4.45 Once a decision has been made about the naming of an individual officer, the Inquiry's next step is to consider documents relating to that officer's deployment for disclosure to those witnesses involved or affected by the deployment who may need to consider them before making their own witness statement, and publication generally. Some of these documents will inevitably contain information about other undercover officers, usually from the same unit, including their names.
- 4.46 The process for dealing with key anonymity applications is set out [here](#).



- 4.47 An up to date schedule of anonymity applications and decisions, and of decisions the Chairman is minded to make, will be published during the week commencing 31 July 2017.

#### **Anonymity applications: National Public Order Intelligence Unit officers**

- 4.48 To ensure the Inquiry makes as rapid progress as possible, anonymity applications have been invited from a first tranche of former National Public Order Intelligence Unit officers: these applications will be twin tracked alongside those of the Special Demonstration Squad in order that the Inquiry will be ready to commence the investigation of these officers as soon as possible.
- 4.49 A further similar approach will be taken with other managers and any necessary back office staff who formerly served with the National Public Order Intelligence Unit at an appropriate time.

#### **Anonymity for other undercover policing units**

- 4.50 In addition to units at the core of the Inquiry's remit, the Inquiry has been and will be continuing to obtain evidence relating to undercover policing from a number of other units. In due course anonymity applications from those affected will need to be sought. However, at this stage the Inquiry is prioritising anonymity work concerning the Special Demonstration Squad and the National Public Order Intelligence Unit.

#### **Anonymity for non-police, non-state, core participants**

- 4.51 The Inquiry is laying the groundwork for engagement of the non-police, non-state witnesses and has already designated [205 as core participants](#), and has granted anonymity for the vast majority of those who have sought it. Copies of the restriction orders have been published on the website, [here](#).

#### **Deceased children's identities**

- 4.52 In July 2013 Operation Herne reported on the use by officers employed in the Special Demonstration Squad of the real identities of deceased children for the purpose of creating their undercover 'legends'. Operation Herne identified that, of 106 covert identities deployed by officers of the Special Demonstration Squad between 1968 and 2008, 42 were or were highly likely to have been the true identities of deceased children.
- 4.53 The Inquiry is investigating the practice of using the names of deceased children to create an undercover legend, whether it is still used and, if not, when it ceased. The Inquiry is also investigating the reasons why this practice was adopted. A preliminary hearing was held on this issue on 22 June 2016, and a [ruling](#) was issued on 14 July 2016. So far, the Inquiry is aware of 42 cases where undercover identities were adopted from the name of a deceased child. Whether or not this figure is precisely accurate remains to be seen, but it provides a minimum number of cover names which

the Inquiry will need to publish (unless a restriction order is sought and made) if it is to continue to pursue its agreed approach.

- 4.54 The Inquiry's working hypothesis is that it was standard practice for the Special Demonstration Squad to use deceased children's identities until sometime in the mid-1990s and that there appears to have been some limited use of the practice by officers in the Animal Rights National Index and/or early days of the National Public Order Intelligence Unit thereafter.
- 4.55 There is a strong public interest in openness in the Inquiry's proceedings, particularly where it is necessary to ensure that interested persons can participate fairly and effectively. Where the Inquiry discovers that the name of a deceased child has been used by a police officer for covert purposes, it will take steps to inform the parents or close relatives of that child (where there is not proposed to be a restriction order preventing publication of that information), in advance of that information being released. This process will enable parents or close relatives to raise any objection to publication.
- 4.56 A number of families had already expressed a wish to know whether their deceased child's identity was the subject of this practice, and more may come forward. It may not always be possible for the Inquiry to provide an answer to this positively or negatively, where this would breach or undermine a restriction order. The Inquiry considers contacting relatives (where possible) prior to an undercover name being released to be an essential and valuable step.

### **Criminal offences, self-incrimination and miscarriages of justice**

- 4.57 The Inquiries Act 2005 states that the Inquiry has no power to rule on or to determine any person's civil or criminal liability. On the other hand, the Inquiry is not prevented from reaching necessary conclusions of fact from which others may infer such liability and it is not the function of the Inquiry to investigate and reach a view about the commission of criminal offences by any officer acting undercover. Where the Inquiry has reason to consider that a miscarriage of justice may have occurred it is required to refer the facts to a panel composed of senior members of the Crown Prosecution Service and the police for further consideration.
- 4.58 During the course of the Inquiry it is possible that evidence will emerge that casts doubt upon the correctness of historical convictions for criminal offences. Evidence may emerge, for example, that an undercover police officer may have committed, by his or her unauthorised action, a criminal offence while performing an undercover role. Unless that officer subsequently receives immunity from prosecution they will be liable to prosecution. It is already clear that former undercover police officers have important evidence to give to the Inquiry that raises issues of self-incrimination.
- 4.59 The Attorney General granted an 'Inquiry-specific' undertaking to enable the Inquiry to better meet its terms of reference. The undertaking means that the evidence witnesses

give to the Inquiry will not be used against them (or against their spouse or civil partner) in any criminal proceedings, or when deciding whether to bring criminal proceedings. It will enable witnesses to give evidence to the Inquiry without fear of being investigated and prosecuted as a result of their own evidence.

### **Recommendations for the future of undercover policing**

4.60 Ultimately the Inquiry will make recommendations arising from its findings. These will be informed by all of the Inquiry's work. Module Three of the Inquiry will be forward looking and specifically orientated towards assisting the Inquiry to formulate its recommendations.

## 5. INQUIRY ADMINISTRATION AND GOVERNANCE

- 5.1 The set up phase of the Inquiry is broadly completed. Sir Christopher Pitchford has now retired and, with effect from 25 July 2017, Sir John Mitting has been appointed Chairman.

### **Inquiry staff**

- 5.2 The Secretary to the Inquiry is Dawn Eastmead. Leading counsel is David Barr QC. The Solicitor to the Inquiry is Piers Duggart.

### **Inquiry IT system and website**

- 5.3 An Inquiry website was created at the same time as the opening statement in July 2015 and documents relating to the Inquiry are regularly uploaded to it, making it the first point of access to the Inquiry's information and progress.
- 5.4 The large volume of highly sensitive material meant that the Inquiry needed to buy a purpose-built system for safely storing such information. The system was designed specifically to meet the Inquiry's needs, so that the process of logging and, cataloguing materials for bulk analysis can progress. The document management system has had bespoke software written for it to enable the Inquiry to process documents between it and the Metropolitan Police Service (in particular). This means the Inquiry has been able to step up the investigation phase of its operations and will be able to examine and process all new materials on the system.

### **Costs**

- 5.5 The Inquiries Act 2005 places a duty upon the Chairman to act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or others).
- 5.6 Details of the Inquiry's expenditure are published on a quarterly basis. As at 30 June 2017 the Inquiry has spent £6,696,000. A full breakdown of the Inquiry's costs is available on the [website](#).

## 6. LOOKING FORWARD

- 6.1 The Inquiry's priority remains to ensure our approach is rigorous, objective and as open as possible in order to do justice to its terms of reference. As will already be apparent, conducting a public inquiry into undercover policing is formidable and time consuming. The hearing on 5 and 6 April 2017 and the accompanying [submissions](#) exposed the complexity and delays to the anonymity application process in a way that made clear that no one should be under any illusions about the scale of the Inquiry's task or its inherent complexity.
- 6.2 The Chairman [informed](#) the Home Secretary that it will not be possible to report within a period of three years from the Inquiry's start date in July 2015. The Inquiry is currently conducting a strategic review with a view to obtaining a more sophisticated estimate of how long the Inquiry will take. This review will also consider whether there are realistic alternative approaches and what their consequences would be. When the Inquiry's strategic review is complete later this year the Chairman will write to the Home Secretary again to provide her with his best estimate of likely timescales.
- 6.3 Following the hearing in April 2017, the Chairman called for a step change in the Metropolitan Police Service's preparation of anonymity applications and set out a timetable requiring tranches of applications to be delivered to the Inquiry. At the time of publication the Inquiry team is preparing to publish the new Chairman's initial response to those applications which have been received together with further directions. A detailed explanatory note and update from the Inquiry legal team will accompany these documents.

### Next few months

#### Anonymity

- 6.4 Further anonymity applications will be received from the Metropolitan Police Service. Responses from the Inquiry to these applications can be expected on a rolling basis. Furthermore, the Inquiry will soon begin to take a new approach to the information it publishes on anonymity. From the autumn, rather than just publishing anonymity decisions on names and cover names of former officers, additional information will also be placed in the public domain, including, where relevant, details on the dates in question and details of the main organisations infiltrated by the officers.
- 6.5 Anonymity hearings may be needed and, if so, it is anticipated that these will commence in the autumn; wherever possible such hearings will be in public but it is inevitable that some will be wholly and some partly in closed sessions to which the public are not admitted. As the Inquiry works its way through issues raised at anonymity hearings we expect the process to become more established and the pace to speed up.

- 6.6 The process for receiving and then determining anonymity applications by National Public Order Intelligence Unit officers will continue through the rest of the year and we expect they will all have been considered and determined in 2018.

#### Witness statements

- 6.7 The Inquiry will shortly begin the process of taking witness statements from former undercover officers and other key individuals involved in their deployment. In due course the Inquiry will make decisions about when and to whom the contents of these statements needs to be published in order to further its investigations. Unless published earlier, and subject to any restriction order, all witness statements containing relevant and necessary evidence will be published during the course of the Inquiry's evidential hearings.

#### Rehabilitation of Offenders Act 1974

- 6.8 This preliminary issue considers the Rehabilitation of Offenders Act 1974 and the effects it may have on the Inquiry's work, in particular in relation to evidence of 'spent' convictions. On Wednesday 2 August 2017 the Chairman will issue a 'Minded to' note on the topic, together with a supplementary note by Counsel to the Inquiry.

#### **Remainder of 2017**

#### Issues lists in preparation for witness statements and hearings

- 6.9 As set out in the June 2017 update note, the Inquiry will shortly begin consultation on the issues list for Module One to be used for the questioning of witnesses. Given that Module One focuses on the evidence of field officers and those affected by their actions, the issue list is likely not to cover managers or administrators or justifications - these will be covered in subsequent modules. The focus of the Module One issues is likely to be around the detail of how officers from the Special Demonstration Squad were selected and trained, relationships they formed while undercover, engagement in criminal activity, supervisions and certain deployments. The Inquiry expects to be in a position to consult on the detailed issues list early in the autumn.

#### Anonymity

- 6.10 The Inquiry will complete its work on Special Demonstration Squad anonymity applications as soon as possible, and is likely to begin any necessary hearings on individual applications from October 2017 onwards. Where no anonymity is sought, or where the Chairman does not decide to grant anonymity, cover names will continue to be published as soon as the Inquiry is in a position to do so.

#### Time line to Module One hearings

- 6.11 The Inquiry expects to approach evidence chronologically, commencing its hearing with the very early days of the then Special Operations Squad formed in 1968 before

moving on the Special Demonstration Squad and its successors. The aim of the Strategic Review is to provide a degree of confidence in forecasting the future shape of the Inquiry and, to this end, the Inquiry intends to publish the likely timeline for Module One, and the shape Module One will take, early in 2018.

## 7. APPENDICES

### Key documents

- Terms of Reference  
<https://www.ucpi.org.uk/wp-content/uploads/2016/06/Terms-of-Reference.pdf>
- Opening remarks  
<https://www.ucpi.org.uk/wp-content/uploads/2015/07/Opening-Remarks.pdf>
- Ruling: Standard of Proof  
<https://www.ucpi.org.uk/preliminary-issues/standard-of-proof/>
- Ruling: Undertakings  
<https://www.ucpi.org.uk/wp-content/uploads/2016/05/160526-ruling-undertakings.pdf>
- Attorney General's undertaking  
<https://www.ucpi.org.uk/wp-content/uploads/2016/09/160828-letter-AGO-to-UCPI-undertaking.pdf>
- Ruling: Deceased children's identities  
<https://www.ucpi.org.uk/wp-content/uploads/2016/07/160714-ruling-deceased-children.pdf>
- Restriction orders: Legal Principles and Approach  
<https://www.ucpi.org.uk/wp-content/uploads/2016/05/160503-ruling-legal-approach-to-restriction-orders.pdf>
- Counsel's note for the hearing on 5 April 2017  
<https://www.ucpi.org.uk/wp-content/uploads/2017/03/20170302-Counsels-Note-for-hearing-on-5-April-2017.pdf>
- Ruling pursuant to the hearing on 5 April 2017  
<https://www.ucpi.org.uk/preliminary-issues/applications-metropolitan-police-service-special-demonstration-squad/>
- Directions pursuant to the hearing on 5 April 2017  
<https://www.ucpi.org.uk/wp-content/uploads/2017/05/20170518-order-SDS-anonymity-applications.pdf>

### Inquiry governance

- How the Inquiry is run (Management Statement)  
<https://www.ucpi.org.uk/wp-content/uploads/2017/03/151214-UCPI-Management-Statement.pdf>
- Inquiry accounts  
<https://www.ucpi.org.uk/costs/>



- Frequently asked questions  
[https://www.ucpi.org.uk/wp-content/uploads/2017/05/20170502\\_FAQs\\_Website\\_version\\_May2017.pdf](https://www.ucpi.org.uk/wp-content/uploads/2017/05/20170502_FAQs_Website_version_May2017.pdf)

### **Update notes**

- June 2016  
<https://www.ucpi.org.uk/wp-content/uploads/2016/06/160627-communications-update-note-FINAL.pdf>
- August 2016  
<https://www.ucpi.org.uk/wp-content/uploads/2016/08/160811-second-communications-update-note.pdf>
- November 2016  
<https://www.ucpi.org.uk/wp-content/uploads/2016/11/161107-third-update-note.pdf>
- March 2017  
<https://www.ucpi.org.uk/wp-content/uploads/2017/03/20170309-fourth-update-note-March-2017.pdf>
- June 2017  
[https://www.ucpi.org.uk/wp-content/uploads/2017/06/20170615\\_fifth\\_update\\_noteJune-2017-final.pdf](https://www.ucpi.org.uk/wp-content/uploads/2017/06/20170615_fifth_update_noteJune-2017-final.pdf)