
COUNSEL TO THE INQUIRY'S EXPLANATORY NOTE TO ACCOMPANY THE 'MINDED TO' NOTE IN RESPECT OF APPLICATIONS FOR RESTRICTIONS OVER THE REAL AND COVER NAMES OF OFFICERS OF THE SPECIAL OPERATIONS SQUAD AND THE SPECIAL DEMONSTRATION SQUAD

Introduction

1. On 18 May 2017 the Chairman issued a [direction](#) concerning the provision by the Metropolitan Police Service to the Inquiry of applications for restriction orders regarding the real and/or cover names of a number of Special Demonstration Squad officers.
2. The Metropolitan Police Service was directed to provide to the Inquiry:
 - a. open and closed versions of applications for restriction orders and supporting Metropolitan Police Service evidence; or
 - b. written confirmation that no restrictions are sought; or
 - c. where an officer is separately represented then open and closed versions of the Metropolitan Police Service risk assessment shall be supplied.

1 June and 1 July tranches

3. In respect of 15 officers (HN7, HN321, HN323, HN327, HN329, HN330, HN333, HN325, HN345, HN120, HN326, HN108, HN16, HN294 and HN343), the deadline set was 1 June 2017. In respect of a further 14 officers (HN146, HN204, HN335, HN68, HN58, HN15, HN81, HN104, HN123, HN2, HN297, HN1251, HN328 and HN26), the deadline set was 1 July 2017. These applications are therefore referred to respectively as the June 2017 and July 2017 tranches.
4. The Chairman has considered the applications received pursuant to that direction and has issued a ['Minded to' note](#), which sets out what he is minded to decide on the material he has considered. It is therefore not a final determination of the applications, and directions are being set to provide an opportunity, where possible, for those core participants who wish to make representations to do so.
5. The 'Minded to' note has been drafted in two parts: one is the open part, which is published together with this explanatory note; the other is a closed part in which the Chairman provides reasons which cannot be published without defeating the

purpose of the application to restrict and which therefore is itself restricted. Where closed reasons supplement the open decision, their existence is indicated in the open reasons.

6. The Chairman has decided that the 'Minded to' process is not appropriate in the case of one officer, HN7. He has therefore made a final determination based on medical evidence which cannot be properly disputed. That ruling will be published together with the redacted application.
7. In cases where a cover name is known and there is no application to restrict it, those cover names are being published in a press release alongside this explanatory note.
8. In cases where the Chairman is minded to refuse an application to restrict a cover name, it should be understood that there can be no publication of the cover name until a final determination is made. If the final decision is not to grant a restriction order over the cover name, then the name will be published after that decision is made. Until that time, the applicant will continue to receive provisional anonymity pursuant to Rule 12 of the Inquiry Rules 2006.
9. This explanatory note sets out, in respect of each Operation Herne nominal in the June 2017 and July 2017 tranches to whom the 18 May 2017 direction applies:
 - a. the extent to which the Metropolitan Police Service has complied with the June and July deadlines;
 - b. where no application for a restriction order has been made, the reason why, and an explanation of what will happen next;
 - c. in all other cases, and insofar as it is possible to do so openly, the applications and supporting evidence that have been received;
 - d. whether the Inquiry has published open versions of the applications and evidence;
 - e. an explanation, where possible, for the delay if open versions of these documents have not been published; and
 - f. any additional submissions made on behalf of police officers who have separate legal representation.

Generic evidence in support of applications

10. The applicants, in some cases, also rely on the content of generic evidence to support their applications. This generic evidence is:

UNDERCOVER POLICING INQUIRY

- i. the Risk Assessment Briefing Note;
- ii. the 'Cairo' statement dated 20 July 2017; and
- iii. the Mosaic Report.

Provisionally redacted versions of these three documents were circulated to the core participants in advance of the hearing in March 2016 (Restriction Orders: Legal Principles and Approach).

11. As regards (i) the Risk Assessment Briefing Note and (ii) the 'Cairo' statement, some of the provisional redactions can now be removed and so revised redacted copies of these two documents are published with this explanatory note.
12. As regards (iii) the Mosaic Report, the Metropolitan Police Service has provided the Inquiry with two successive versions of the Mosaic Report which are slightly different in content. The version of the Mosaic Report that has been published is based on the same version as was circulated to core participants in provisionally redacted format on 18 February 2016. Some of the provisional redactions to that version have now been removed. In addition, the Inquiry has checked whether there are any matters in the alternative version of the Mosaic Report that ought to be disclosed (given that it understands that the alternative version has been provided to Risk Assessors).
13. In the alternative version of the Mosaic Report, after the first paragraph at 4.4 (as part of the bullet point "Locating Bob Lambert") there was a reference to and extract from the interview mentioned in that paragraph. The link to the interview is <http://www.newyorker.com/magazine/2014/08/25/the-spy-who-loved-me-2>. There was also, after the paragraph following, reference to and an extract from the Undercover Research Group website article on Bob Lambert: http://powerbase.info/index.php/Robert_Lambert#cite_ref-AWB199_27-0
14. In all other cases, any additional information in the alternative version of the Mosaic Report is immaterial, or is information that the Inquiry would have restricted in any event.

Status of personal statements

15. It should be noted that impact accounts or personal statements that have been supplied to the Inquiry have been generated for the purpose of informing the risk assessment process. While they may touch on matters that will be addressed in evidence, they will typically only do so where those matters are also relevant to the grounds on which the anonymity application is made. The Inquiry intends to take

separate statements from the applicants which will constitute their evidence to the Inquiry on substantive matters.

Metropolitan Police Service compliance with the 18 May 2017 interim directions for the provision of anonymity applications

16. So far as the June 2017 tranche of officers is concerned, with one exception, the Metropolitan Police Service either made an application for a restriction order, provided a risk assessment, or indicated that no application was to be made. The exception was HN345 (see paragraph 25 below). However, for reasons set out below, in some cases the Metropolitan Police Service varied these decisions. So far as the July 2017 tranche of officers is concerned, with two exceptions, the Metropolitan Police Service either made an application for a restriction order, provided a risk assessment, or indicated that no application was to be made. The exceptions were HN2 and HN15. The Metropolitan Police Service has reserved its position in respect of HN2 whilst HN2 secures separate legal representation. The Metropolitan Police Service cannot make a final decision in respect of HN15 until an adequate risk assessment is available (see paragraph 20 below) and therefore HN15's representatives cannot finalise their application. Again, in some cases, the Metropolitan Police Service subsequently varied these decisions.
17. Although the Metropolitan Police Service complied in most respects with the June and July deadlines, as described above, it has done so subject to a number of caveats. Of particular note are the following:
 - a. In cases where the officer is deceased, subject to contacting the officer's next of kin; and
 - b. In all cases in which the Metropolitan Police Service is not applying for a restriction order over a known cover name, subject to further assessing whether any risk of harm arises from a pattern of official confirmations of cover names, a risk that the Metropolitan Police Service calls a "lateral mosaic effect".
18. The Inquiry set a series of deadlines for the Metropolitan Police Service to complete their "lateral mosaic" checks in respect of existing applications. The Inquiry expects the Metropolitan Police Service to move as soon as possible to the position where any future risk assessments incorporate any assessment of lateral risk. In relation to the June and July 2017 tranches of anonymity applications, the Metropolitan Police Service ultimately confirmed that the issue of lateral risk does not affect any of its originally stated positions.

UNDERCOVER POLICING INQUIRY

19. Since initially submitting their applications, the Metropolitan Police Service has, for other reasons, changed its position to widen the restriction sought in relation to three officers: HN68, HN294 and HN321.
20. On 29 June 2017 the Metropolitan Police Service informed the Inquiry of a problem with some of its risk assessments which were inadequate; this problem had already been raised by the Inquiry. The Metropolitan Police Service has informed the Inquiry that it is taking remedial measures, including reviewing the unsatisfactory assessments. A consequence of this is that the Inquiry is awaiting confirmation from the Metropolitan Police Service of its final position in relation to a number of officers: HN15 (as referred to above); HN16; and HN343.
21. Though directed to provide open versions of their restriction order applications with their closed versions to enable the Inquiry to consider any gists in advance of publication, the Metropolitan Police Service was not able in every case to do so. Reaching agreement about what should appear in an open version of an application and supporting evidence depends on the breadth of the final application being made by the Metropolitan Police Service and any other legal representatives. Though some time was wasted due to changes in the breadth of the applications being made, it has not delayed progress. In respect of future tranches of applications, the Inquiry will request an open version only when the breadth of the application becomes clear.

Cases in which no application for anonymity has been made

22. In the cases of several Special Demonstration Squad officers, the Metropolitan Police Service have not made an application for a restriction order. This is because these officers were either part of the management team within the Special Demonstration Squad or worked in the unit's back office and as such they did not use cover names. Therefore it is not believed that they interacted with members of the public in undercover deployments. The Metropolitan Police Service do not apply to restrict these officers' real names and therefore their real names will appear on the relevant documentary evidence and witness statements published by the Inquiry in due course. The nominals in respect of whom this applies are: HN325, HN120, HN108, HN146, HN204, HN1251 and HN328.
23. In addition, in the cases of some other Special Demonstration Squad officers, the Metropolitan Police Service have not made an application for a restriction order because, although the officer was an undercover officer deployed in the field, the officer is now deceased and investigations to date do not reveal any cover name used. The Metropolitan Police Service do not apply to restrict these officers' real

names and therefore their real names will appear on the relevant documentary evidence and witness statements published by the Inquiry in due course. The nominals in respect of whom this applies are: HN323, HN327 and HN335.

Increase in former Special Demonstration Squad officers seeking legal representation and the impact on the anonymity process

24. Recent months have seen a considerable rise in the number of former Special Demonstration Squad officers who have obtained legal representation. As at 2 August 2017 the Metropolitan Police Service's Designated Lawyer team is representing 83 former Special Demonstration Squad officers but due to their efforts to join the anonymity application process with the minimum of disruption, this has not impeded progress. One officer represented by the Designated Lawyer team has sought a wider restriction than the Metropolitan Police Service: HN333. That officer's individual application has been provided promptly and is the subject of a provisional decision in the Chairman's 'Minded to' note. The Designated Lawyer team have provided general submissions in respect of their clients' applications. A [redacted version of those submissions](#) is published on the Inquiry's website.

Extension of time for HN345

25. In the case of one Special Demonstration Squad officer in the June 2017 tranche, HN345, the Metropolitan Police Service has applied for and been granted an extension to 1 September 2017 (instead of 1 June 2017). This is because the Metropolitan Police Service thought that this officer was deceased: their enquiries have since revealed that the officer is still alive and therefore they need more time to carry out the research involved in deciding whether to seek a restriction order.

Case-by-case explanation of the position in relation to those officers in respect of whom an application for anonymity is being made

26. The position as regards the remaining 17 officers is as follows:

June 2017 tranche

HN2

27. The Inquiry has received an application from the Metropolitan Police Service for restriction over publishing the real name only, a risk assessment and additional evidence.

UNDERCOVER POLICING INQUIRY

28. This officer is yet to be in a position to be able to confirm whether any wider restriction is to be sought to include the restriction of the cover name. The Inquiry is committed to ensuring fairness in its procedures.
29. In the circumstances of this application, it has not been possible for the Inquiry to agree open versions of the material received to date as it is not known what material can be published without prejudicing any future application that may be made by the officer.

HN16

30. The Inquiry has received no application for a restriction order from the Metropolitan Police Service but has received an application from the officer's recognised legal representative to restrict both real and cover names. In addition, the Inquiry has received personal statements and an expert medical report. The Inquiry and the officer's recognised legal representative await the final risk assessment from the Metropolitan Police Service and therefore the material received on behalf of this officer's application is not complete.
31. In March 2016, the Inquiry published on its website an open version of the personal statement of HN16 together with open versions of the application and risk assessment as they then existed.
32. After receipt of the final risk assessment the Inquiry will issue directions and publish such open versions of the documents as it is possible to publish.

HN68

33. The Inquiry has received an application from the Metropolitan Police Service to restrict publication of the real and cover names, evidence from the surviving family, a risk assessment and additional threat assessments.
34. The Inquiry has published on its website open versions of the application, the impact evidence and the risk assessment.

HN294

35. The Inquiry has received an application from the Metropolitan Police Service for restriction over publishing the real name, evidence from the officer's surviving family and a risk assessment. No cover name is known.
36. The Inquiry has published on its website an open version of the application, the impact evidence and the risk assessment.

HN321

37. The Inquiry has received an application from the Metropolitan Police Service to restrict publication of the real and cover names, an impact statement and a risk assessment. The Inquiry has also received general submissions from the Designated Lawyer team as referred to above.
38. The Inquiry has published on its website an open version of the application, the impact statement and the risk assessment.

HN326

39. The Inquiry has received an application from the Metropolitan Police Service to restrict publication of the real name only, an impact statement, a risk assessment and additional threat assessments.
40. The Inquiry has published on its website an open version of the application, the impact statement and the risk assessment.
41. The cover name of this officer is confirmed in the press release published alongside this note.

HN329

42. The Inquiry has received an application from the Metropolitan Police Service to restrict publication of the real name only, an impact statement and a risk assessment.
43. The Inquiry has published on its website an open version of the application, the impact statement and the risk assessment.
44. The cover name of this officer is confirmed in the press release published alongside this note.

HN330

45. The Inquiry has received an application from the Metropolitan Police Service to restrict publication of the real name only, an impact statement and a risk assessment. No cover name is known.
46. The Inquiry has published on its website an open version of the application, the impact statement and the risk assessment.

HN333

47. The Inquiry has received two applications: one from the Metropolitan Police Service to restrict the publication of the real name only, and one from the officer's Designated Lawyer to restrict the cover name, an impact statement and a risk assessment.
48. The Inquiry has published on its website an open version of each application, the impact statement and the risk assessment.

HN343

49. The Inquiry has received an application from the Metropolitan Police Service for restriction over publishing the real name only and an impact statement and additional evidence. A final risk assessment is awaited from the Metropolitan Police Service which might trigger a wider application to restrict the cover name as well as the real name.
50. The Inquiry will publish open versions of the documents when it is known what application is being made so as to avoid revealing details now that might prejudice the final application.

July 2017 tranche

HN15

51. The Inquiry has received no application for a restriction order from the Metropolitan Police Service but has previously received an application from this officer's recognised legal representative to restrict HN15's real and cover names and is on notice that this application will be supplemented on receipt of the final risk assessment from the Metropolitan Police Service, which is still awaited. In addition, the Inquiry has received additional evidence.
52. In March 2016, the Inquiry published on its website an open version of the personal statement of HN15 together with open versions of the application and risk assessment as they then existed.
53. In the circumstances of this application, it has not been possible to publish any more material.

HN26

54. The Inquiry has received from the Metropolitan Police Service an application to restrict publication of the real name only but has received an application from the

officer's recognised legal representative to restrict both real and cover names. In addition the Inquiry has received expert medical evidence, additional impact evidence and risk assessments.

55. In March 2016, the Inquiry published on its website an open version of the personal statement of HN26 together with open versions of the application and risk assessment as they then existed.
56. The Inquiry has today published on its website open versions of the applications received to date, a risk assessment, impact evidence and medical evidence.

HN58

57. The Inquiry has received applications from the Metropolitan Police Service and the officer's recognised legal representative to restrict both real and cover names, a personal statement, an expert medical report and additional threat assessments.
58. In March 2016, the Inquiry published on its website an open version of the personal statement of HN58 together with open versions of the application and risk assessment as they then existed.
59. The Inquiry has today published on its website open versions of the applications, medical report and risk assessment.

HN81

60. The Inquiry has received applications from the Metropolitan Police Service and the officer's recognised legal representative to restrict both real and cover names, personal statements, an expert medical report and additional threat assessments.
61. In March 2016, the Inquiry published on its website an open version of the personal statement of HN81 together with open versions of the application and risk assessment as they then existed.
62. The Inquiry has today published on its website open versions of the applications, medical report and risk assessment.

HN104 - "Carlo Neri"

63. The Inquiry has received applications from the Metropolitan Police Service and from the officer's recognised legal representative to restrict publication of the real name only, personal statements from the officer and family members and an expert medical report. A final risk assessment is awaited from the Metropolitan Police

Service and therefore the application is not final but there can be no scope for restriction of the cover name.

64. The Inquiry has published on its website open versions of the applications to date, impact evidence and medical evidence.

HN123

65. The Inquiry has received applications from the Metropolitan Police Service and the officer's recognised legal representative to restrict both real and cover names, personal statements and medical material.
66. In March 2016 the Inquiry published on its website an open version of the personal statement of HN123 together with open versions of the application and risk assessment as they then existed.
67. The Inquiry has today published on its website open versions of the applications.

HN297

68. The Inquiry has received an application from the Metropolitan Police Service for a restriction over publishing the real name only, a risk assessment and additional threat assessments.
69. The Inquiry has published on its website open versions of the application and risk assessment.
70. The cover name of this officer is confirmed in the press release published alongside this note.

August 2017 and future tranches - Applications to vary existing directions and the setting of directions in relation to further former Special Demonstration Squad officers

71. On 26 June 2017 the Inquiry received a fortnightly update letter from the Metropolitan Police Service requesting that the deadline applicable to HN86 be varied from 1 August 2017 to post 1 September 2017 in order to permit time for the officer to attend a meeting with the risk assessor.
72. On 11 July 2017 the Inquiry received a fortnightly update from the Metropolitan Police Service requesting that the deadline applicable to HN78 be varied from 1 August 2017 to 1 September 2017 in order to permit time for the officer to attend a meeting with the risk assessor. The letter also sought to vary the deadline for the

entirety of the September 2017 tranche from 1 September 2017 to 15 September 2017.

73. On 26 July 2017 the Inquiry received a further letter from the Metropolitan Police Service on the subject of deadlines, incorporated into one of its regular fortnightly updates on progress with anonymity, informing the Inquiry that the difficulties it is having complying with the August and September deadlines are now more extensive. In particular, the Metropolitan Police Service has indicated that it does not expect to comply with the 1 August 2017 deadline in respect of five of the 18 officers who originally formed part of the tranche (HN23, HN78, HN127, HN331 and HN344). Further, the Metropolitan Police Service does not expect to be able to comply with the deadline for September's tranche of officers even if time were to be extended to 15 September 2017. The Metropolitan Police Service has asked to discuss varying the existing timetable with the Inquiry legal team. We will shortly be meeting with them to explore these developments further. We will then report to the Chairman so that he can consider how best to deal with the situation. Our aim will be to find a robust solution that entails the minimum further delay.
74. On 1 August 2017, the Inquiry received material concerning anonymity applications for 11 out of the 18 officers about whose nominal are is listed within the August 2017 tranche. In addition the Inquiry received notification that a decision letter relating to HN318 would follow as soon as possible.
75. The current interim directions set deadlines in respect of 71 former Special Demonstration Squad personnel. The Inquiry will shortly be giving directions specifying deadlines in relation to the remaining former members of the Special Demonstration Squad.

DAVID BARR QC
KATE WILKINSON

3 August 2017