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**IN THE MATTER OF THE PUBLIC INQUIRY INTO UNDERCOVER
POLICING**

**APPLICATION FOR A RESTRICTION ORDER (ANONYMITY) RE: N330
SUBMITTED ON BEHALF OF THE MPS**

Restriction Order Sought

1. The MPS apply for a restriction order over the real identity of N330 to last indefinitely in the following terms:
 - (1) No direct or indirect disclosure of N330's real name (including any description or image capable of identifying him) beyond the Chairman and the Inquiry team;
 - (2) The Commissioner reserves the right to make further submission as to the effective operation of this Restriction Order during the course of the Inquiry.

Legal Basis for the Application

2. The Application is made on the following statutory basis:

s.17(3) of the Inquiries Act 2005: the duty to act with fairness in the procedure or conduct of an inquiry

s.19(3)(b) read together with s.19(4)(b)-(d) of the Inquiries Act 2005: conducive to the Inquiry fulfilling its terms of reference or necessary in the public interest, having regard in particular to the matters mentioned in subsection (4).
3. The applicable legal principles have been comprehensively set out in the Chairman's Restriction Order: Legal Principles and Approach Ruling ("the Principles Ruling") of 3 May 2016. Regard has also been had to the restriction order rulings in respect of Cairo and the 'Minded to' note dated 25 October 2016 in respect of Jaipur and Karachi.

Evidence in Support

4. This Application should be read together with the following items:

N330 Risk Assessment dated 22 February 2017

Personal impact statement of N330. N330 has not signed this statement to attest the truth of its contents; if he agrees to do so, a signed version will be forwarded to the Inquiry in due course. The statement supplied has been compiled on the basis of instructions provided by N330 to Operation Motion

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in a series of emails. The MPS asserts that the Inquiry may take the statement into consideration as part of this application; the absence of a statement of truth merely going to weight.

5. The afore-mentioned documents are not to be circulated wider than the Chairman and the Inquiry team unless otherwise stated.

Reasons

Section 17

6. Application of the statutory and common law principles of fairness require that the real identity of N330 is not disclosed. The considerations which apply are highlighted below in relation to s.19(3)(b) and s.19(4).

Section 19(3)(b) and s19(4)

7. The Chairman is invited to find that a Restriction Order protecting N330's real identity is conducive to the Inquiry fulfilling its Terms of Reference or is necessary in the public interest having regard in particular to the factors set out at s.19(4) of the Act read together with the Chairman's approach at [152] of the Principles Ruling:

The public interest in non-disclosure

8. The following public interest factors are pertinent:
 - (a) N330 is a former UCO whose deployment into the field lasted, by his own estimation, for a matter of weeks. The extent of his infiltration is best described as superficial and is in no way comparable to the involvement of later officers. [Personal Impact Statement §§8-9, 12; Risk Assessment §§15.5, 16.2]
 - (b) It is reasonable to infer that N330 has respected the confidentiality of his deployment and of the Unit. [Personal Impact Statement §11]
 - (c) He was deployed UC into a group that is since disbanded and which has no successor organisation. As a result of the significant amount of time that has lapsed since his deployment and the superficial nature of his infiltration, the extent to which the evidence he is able to give is going to be of primary interest to the CPs and the Inquiry may be limited. [Personal Impact Statement §§8-9, 13; Risk Assessment §16.1]
 - (d) There is no evidence that N330 used a deceased child's identity.
 - (e) There is no evidence that N330 engaged in misconduct.

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The public interest in disclosure

9. The general presumption in favour of openness weighs against the making of a Restriction Order in N330's case. It is acknowledged that in the absence of a known formal cover name, if N330's real identity were restricted there would be no alternative but for him to give evidence to the Inquiry using a cypher. However, this must be viewed in light of the fact that the MPS will not be applying for a restriction order over N330's status as a former UCO. Further, in the particular circumstances of an officer whose deployment lasted a matter of weeks some 50 years ago, the effective participation of CP's and witnesses in the Inquiry is unlikely to be furthered if N330's real name were disclosed or impeded if it were withheld.

Where the public interest balance lies

10. The MPS has considered the Chairman's Principles Ruling and has had particular regard to the presumption of openness in the Public Inquiry. This application is similar in many respects to those submitted for officers of a similar vintage such that the Chairman's decision is capable of having an effect on future applications.
11. In all the circumstances, the MPS makes this application for a Restriction Order on the basis that confirmation of N330's status as a former UCO is the most appropriate measure falling short of confirmation of his real identity that reflects the public interest balance and enables the Inquiry to fulfil its Terms of Reference.

MPS, Department of Legal Services

01 June 2017