

IN THE MATTER OF THE UNDERCOVER POLICING INQUIRY

**APPLICATION FOR RESTRICTION ORDER (ANONYMITY)
IN RESPECT OF HN333's COVER NAME
SUBMITTED BY THE DESIGNATED LAWYERS**

1. The following abbreviations are used herein:

“A/N” application notice;

“DL” the Designated Lawyers, i.e. Mark Spanton and Anna Peacock within the MPS Directorate of Legal Services acting in their capacities as such;

“I/S” impact statement;

“R/A” risk assessment;

“SDS” Special Operations Squad / Special Demonstration Squad.

2. This A/N is submitted further to and should be read together with the following which constitute the MPS application for a restriction order in respect of HN333's real name:

(1) A/N dated 05/05/17;

(2) R/A dated 02/05/17;

(3) DL notice of supplementary submissions dated 17/07/17.

3. In addition to the above, an I/S on behalf of HN333 will be submitted shortly in support of both the real name application referred to above and the further cover name application set out below.
4. This cover name application is made on the grounds set out in the MPS A/N (as supplemented by the DL notice of supplementary submissions dated 17/07/17):
 - (1) Inquiries Act 2006, s.17(3) (fairness);
 - (2) Inquiries Act 2006, s.19(3)(a) read with the Human Rights Act 1998, s.6 and the ECHR, art.8 (right to respect for private and family life);
 - (3) Inquiries Act 2006, s.19(3)(b) read with s.19(4)(b)-(c) (fulfilment of terms of reference and necessary in public interest having regard to risk of harm or damage and conditions of confidentiality).
5. The MPS are not making an application in respect of HN333's cover name because they assess that it cannot be used in conjunction with open sources to identify him or his real name.
6. Although HN333 is unable to point to a specific route by which the release of his cover name (together with his deployment dates and target group) could be used to identify him or his real name, there remains a risk that this could be done, particularly bearing in mind the mosaic effect. In this regard, third parties may hold or have access to information which is unknown to or not foreseeable by the MPS and/or not in the public domain or accessible using open sources, but which could nevertheless be used to deduce, derive or infer HN333's real name and true identity.
7. So far as concerns the degree of risk in this case, it is emphasised that:
 - (1) HN333's principal target group was small and comprised no more than [number] people at any one time;

- (2) the group itself ceased to exist many years ago and it has not applied for designation as a core participant in the Inquiry;
- (3) HN333's targeting / infiltration of the group - in terms of its nature, mode and duration - was confined to attendance at group meetings and public events, did not involve the cultivation of personal relationships within a truly private sphere and therefore did not follow the template of later SDS deployments of the kind at issue in the Inquiry (see also the MPS A/N dated 05/05/17);
- (4) no allegations of wrongdoing of the kind referred to in the Inquiry's *Restriction Orders: Legal Principles and Approach Ruling* dated 03/05/16, para.90 have been made in connection with either the group in question or the work of the SDS at the relevant time in the 1960s;
- (5) the group [group's adherence] did not have any official name and simply identified itself by reference to [means of identification] and confirmation of [that] effectively identifies the group in question;
- (6) it is unlikely that many other members of the group will have departed and lost all contact with it at the material time in the same way as HN333;
- (7) some of the members of the group are also likely to have died in the intervening 50 years;
- (8) publication by the Inquiry of HN333's cover name and target group, in circumstances confirming that he remains alive, will make it easier for surviving members who remember that name or HN333 and/or others to identify him, particularly if they are also able to exclude other members known to have since died;
- (9) if none of the surviving members of the group remembers HN333 or his cover name, there would be no point publishing these details because

they could not elicit relevant evidence within the Inquiry's terms of reference.

8. Furthermore, the fact that release of HN333's cover name would be contrary to his reasonable expectations of confidentiality and privacy and his subjective concerns about the possible consequences of this are both relevant to an assessment of the reasonableness and fairness of release, its capacity to serve a recognisable public interest and its proportionality for the purposes of art.8(2).
9. In circumstances where, on the one hand, the relevant group, HN333 and his deployment against it for a matter of months in the late 1960s, are all of such slight and peripheral relevance to the Inquiry and its terms of reference and, on the other hand, release of HN333's cover name will create some risk of public identification and cause him related worry and concern, it is submitted that the Inquiry should err on the side of protecting HN333 and grant a restriction order in relation to his cover name, as well as his real name.

THE DESIGNATED LAWYERS (UCPI)

27 July 2017