UCP) (NS) 53)

IN THE MATTER OF THE INQUIRIES ACT 2005 AND IN THE MATTER OF THE INQUIRY RULES 2006

THE UNDERCOVER POLICING INQUIRY

[OPEN] <u>SUPPLEMENTAL</u> APPLICATION ON BEHALF OF N81 FOR RESTRICTION ORDERS

Introduction

- 1. The Inquiry has been provided with the following documents in support of the restriction order applications made by N81 in 2016: (i) Closed and Open applications drafted by S&G LLP dated 19 February and 11 March 2016; (ii) MPS risk assessment dated 5 February 2016; (iii) personal statement of N81 dated 17 February 2016; (iv) gisted personal statement [undated]; (v) draft order; (vi) additional medical reports [redacted] provided on 1 June 2016 (although referred to in letter of 24 May 2016 from S&G LLP).
- 2. This document is intended to supplement the existing application for restriction orders in light of two additional documents which are filed in support of N81's existing application for restriction orders: (i) the risk assessment prepared by David Reid dated 28 June 2017; (ii) the psychiatric report prepared by Dr Walter Busuttil dated 15 February 2017.
- This document organises the information contained in the two documents mentioned above and makes limited submissions on the basis of that information. It is not intended as a skeleton argument.
- 4. N81 maintains *his/her* application for the restriction orders sought in *his/her* original closed and open applications as set out in the draft order originally submitted.

5.	As will be apparent from the new risk assessment,
	N81 fully cooperated with the risk assessment process. A
	lengthy account of his/her responses to questions asked of N81 by the risk assessor is
	attached to the risk assessment.
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Plainly, there is likely to be a
correspondingly high level of interest and motivation for discovering N81's true
identity.
Accordingly, N81 submits that on the available material, there are substantial grounds
for concluding that there is a real risk
should s/he give evidence in public either under his/her pseudonym or a cipher.

Article 3 - risk of physical assault

9.

11. N81 has always maintained that the risk of physical attack will not necessarily emanate from named individuals who are known to him/her or with whom s/he formed relationships with during his/her deployment. His/her concern is that someone who doesn't necessarily have any connection with any of the groups to which s/he was deployed will develop a hostile animus

12. It is appreciated that it is difficult to objectively assess such an unknown and unpredictable risk – but that difficulty is different from concluding for the purposes of the restriction order application that any such risk should be discounted. To the contrary, N81 would submit that there are reasonable grounds upon which to conclude that such an attack is well within the range of likely outcomes should his/her identity be disclosed, and that his/her own subjective fear of such an attack is objectively justified.

Article 3 - risk of psychological harm

13.	For obvious reasons, this topic is not covered in the latest risk assessment. There are
	three features of N81's medical history which merit attention. First, the Inquiry has
	all the available medical records confirming N81's history
	. Second, the Inquiry will note that it is the opinion of Dr
	Busuttil that N81 "
	Third, the concluded view of Dr Busuttil on the two
	issues on which the Inquiry requested his opinion is stark:

the up to date evidence of the harm that would be caused to N81 were the protections sought not granted, it is submitted that the public interest balance falls overwhelmingly in favour of granting the restriction orders applied for.

Article 8 - private and family life

15. Although alluded to at various points in the risk assessment, both N81's deployment
and the prospect of the disclosure of his/her identity
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Inquiry is invited to take into account the adverse consequences that would redound to
N81's private and family life were his/her identity to
be disclosed, which would constitute the clearest possible interference with his/her
Article 8 rights.
Conclusion
17. N81's application for the measures sought in the draft order is maintained and
enhanced by the most recent material provided to the Inquiry.
SLATER & GORDON LLP
13 th July 2017