

UNDERCOVER POLICING INQUIRY

In the matter of section 19(3) of the Inquiries Act 2005

Applications for restriction orders in respect of the real and cover names of officers of the Special Operations Squad and the Special Demonstrations Squad

Supplementary 'Minded to' note

HN16

1. I am minded to make a restriction order under section 19(3) of the Inquiries Act 2005 in respect of the real name of HN16 and to refuse the application for a restriction order in respect of the cover name.

Reasons

2. Publication of the cover name of HN16 is necessary to afford an opportunity to any individual who may have had an intimate relationship with HN16 under the cover name to provide information and evidence about it to the Inquiry. This involves a small risk of significant interference with the right to respect for private and family life of HN16, if it leads to the revelation of the real name of HN16. Nevertheless, it is necessary to permit the Inquiry to fulfil its terms of reference to take that risk and proportionate to do so. On the basis of the information presently known to the Inquiry, and if no plausible evidence of such a relationship is forthcoming, publication of the real name of HN16 would neither be necessary for that purpose, nor proportionate, nor otherwise justified.
3. These reasons are supplemented in a closed note, which sets out in detail the reasons for refusing the application for a restriction order in respect of the cover name.
4. Before conducting the closed hearings which preceded the issuing of this note, I read and have taken into account the written submissions referred to in paragraph 5 of the directions given on 23 October 2017.

HN81

5. Following the closed hearing on 10 October 2017 I am minded to make a restriction order under section 19(3) of the Inquiries Act 2005 in respect of the real name of HN81 and to refuse the application in respect of the cover name.

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Reasons

6. The Inquiry cannot fulfil its terms of reference on a critical issue – the alleged infiltration of the Lawrence family campaign and the intelligence gathered and reported upon it by undercover police officers, in particular HN81– unless the cover name is published. It is essential that members of the group against which HN81 was deployed and others in the Lawrence family campaign should be able to give evidence about HN81's actions. They cannot sensibly be expected to do so unless they know who HN81 was in the name by which HN81 was known to them. It is likely that this decision will have an adverse impact on HN81's mental health and so interfere with the right to respect for the family and private life of HN81 and HN81's partner. I am satisfied that the interference is justified under Article 8(2) of the European Convention on Human Rights ('the European Convention') because of the compelling public interest in getting to the truth about HN81's deployment. Publication of the real name of HN81 by the Inquiry is not necessary to permit the terms of reference of the Inquiry to be fulfilled. Given that it is not necessary, it would be disproportionate to do so.
7. Closed reasons supplement and explain in greater detail the reasons for this proposed decision.
8. If the decision proposed is made, neither the cover name of HN81 nor the name of the group against which HN81 was deployed will be published immediately, to permit steps to be taken to mitigate the impact on HN81's mental health.

HN26

9. I am minded to make a restriction order under section 19(3) of the Inquiries Act 2005 in the case of the real name of HN26 and to refuse the application for a restriction order in respect of the cover name.

Reasons

10. It is necessary to permit the Inquiry's terms of reference to be fulfilled that HN26's cover name be published. The activities in which HN26 participated during deployment are matters of legitimate public concern. Others, not belonging to the Special Demonstration Squad, could, if alerted to the cover name of HN26 give evidence of potential value about them and about HN26's participation in them. Unless the cover name is published, there is a real risk that the Inquiry would be

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deprived of such evidence. No practicable means exists of obtaining such evidence from them unless the cover name of HN26 is published by the Inquiry. The Article 8(2) European Convention rights of HN26 are engaged, but the public interest identified above justifies the interference with them identified in the closed reasons which accompany this note.

11. Publication of the real name of HN26 by the Inquiry is not necessary to permit the terms of reference of the Inquiry to be fulfilled. Given that it is not necessary, it would be disproportionate to do so.
12. A closed note supplements this note and provides detailed reasons for the conclusions expressed above.

HN58

13. There is considerable force in paragraphs 116 to 122 of the written submissions made by Miss Kaufmann QC on 5 October 2017 and in paragraphs 16 to 19 of the written submissions made by Ms Sikand on 4 October 2017. The principal reason supporting the decision which I was minded to make to restrict publication of both real and cover names was concern for the safety of HN58, arising out of the deployment of HN58 as an undercover officer. It is possible that this concern could be met if evidence about the discharge of managerial duties by HN58 was given in the real name and evidence about HN58's activities as an undercover officer was given entirely in closed session. Not much of public value would be lost thereby.
14. I invite submissions from all concerned with this issue, including HN58 on this alternative course. A short closed hearing may be required after open submissions have been made.

HN104

15. I note the statement made in paragraph 135 of Miss Kaufmann's written submissions that the identity of HN104 is known to "those on whom he spied". The Inquiry has no power to prohibit any individual, including a core participant, from publishing information about any other individual not derived from evidence or documents given produced or provided to the Inquiry: section 19(1)(b) of the Inquiries Act 2005. For what I understand to be good reasons none of them has chosen to publish the real name of HN104 to date. As they will know, the personal (not State) interests of others are engaged. Before the hearing on 20 – 22 November 2017, I invite reconsideration

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of the non-police, non-state core participants' stance on the application of HN104 for a restriction order in respect of his real name.

HN330

16. When the 'Minded to' dated 3 August 2017 was published, the Inquiry did not know HN330's cover name and HN330 could not remember it. The Inquiry has since received information from another officer which permits HN330's cover name to be published. Legal representatives for this officer and the Metropolitan Police Service have been notified and, provided that no application for a restriction order in respect of it is received, it will be.

23 October 2017

Sir John Mitting
Chairman, Undercover Policing Inquiry