

# UNDERCOVER POLICING INQUIRY

## FREQUENTLY ASKED QUESTIONS

### ABOUT THE INQUIRY

#### **Q: What is the Inquiry about?**

A: The purpose of the Inquiry into undercover policing is to inquire into and report on undercover police operations conducted by English and Welsh police forces in England and Wales since 1968. The Inquiry will examine the contribution undercover policing has made to tackling crime, how it was and is supervised and regulated, and its effect on individuals involved, both police officers and others who came into contact with them.

The work of the Inquiry will fall into three modules:

**Module One** will look at what happened in the deployment of undercover officers in the past, their conduct, and the impact of their activities on themselves and others.

**Module Two** will look at the management and oversight of undercover officers, including their selection, training, supervision and care after the end of an undercover deployment. This section will also look at the law and other rules covering undercover policing.

**Module Three** will make recommendations about how undercover policing should be conducted in future.

### WHAT THE INQUIRY TEAM DO

#### **Q: What is the Chairman's role?**

A: The Chairman's remit is set out in the Inquiry's terms of reference, which are found [here](#). The Chairman decides how the Inquiry is to investigate the matters within the terms of reference, subject to a requirement to act with fairness and to avoid unnecessary cost. The Chairman supervises the running of the Inquiry and will write the report at its conclusion, making findings of fact and any relevant recommendations for the future. The Chairman cannot make any findings of civil or criminal liability, nor can he award any compensation.

#### **Q: Who is the Chairman accountable to?**

A: The Inquiry Chairman acts in an independent capacity and is tasked to deliver his report to the Home Secretary in line with the Inquiry's terms of reference.

#### **Q: Who assists the Chairman?**

A: The Chairman is assisted by a team of people:

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- The Secretariat, which is responsible for administering the non-legal aspects of the Inquiry (for example finance, accommodation, hearings, security, personnel, media and the website);
- Solicitors, lawyers and paralegals, who administer the legal functions of the Inquiry; and
- The Counsel team, which advises the Chairman and conducts the oral hearings.

## **Q: Can you add me to your media distribution list?**

A: If you provide the Inquiry communications officer with a copy of your National Union of Journalists card or proof of accreditation (letter from an editor for example), we can add you to our media distribution list, email [press.queries@ucpi.org.uk](mailto:press.queries@ucpi.org.uk). Updates and new information about the Inquiry are also posted on the Inquiry website and tweeted via account @ucpinquiry. These tweets provide direct links to certain pieces of information or documents.

## **Q: If I submit a request or question via Twitter will you respond?**

The Inquiry monitors its Twitter account and takes notice of the comments made in respect of its tweets. However, the Inquiry Twitter account has been set up so the Inquiry can keep people informed. The account will not generally respond to tweets, like or retweet other tweets, or follow other users. The Inquiry does welcome feedback about its work. The best way to engage with us is via the Inquiry email [info@ucpi.org.uk](mailto:info@ucpi.org.uk).

## **SUBMITTING EVIDENCE**

### **Q: How do I get in touch with the Inquiry or submit evidence to the Inquiry?**

A: You can:

- email us at [info@ucpi.org.uk](mailto:info@ucpi.org.uk)
- write to us at PO Box 71230, London NW1W 7QH
- give us a call on 0203 876 4750 or 0203 876 4760.

You may, if you choose, instruct a solicitor to represent you.

#### Data protection notification

When you voluntarily choose to give the Undercover Policing Inquiry personal information by email, by post, or over the telephone you are consenting to the collection, retention and use of your personal information in accordance with this notice.

#### How we use your personal information

When you decide to contact us, the Inquiry team will record your details and any other information you give to us. We will use this information:

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- To respond to any query or question that you have raised; and/or
- For the purpose of furthering the Inquiry's investigations into undercover policing.

At the end of the Inquiry, and as required by law, our records, of which your details and personal information may form part, will be transferred to the National Archives.

### Security

Appropriate steps will be taken to safeguard your personal information and to prevent any unauthorised access to it.

#### **Q: What happens when I contact the Inquiry?**

A: Any initial contact with the Inquiry will be recorded and your details will be kept by the Inquiry team unless you specifically ask us not to; however if your engagement with the Inquiry is to proceed we will need to take some details.

The Inquiry team will not take evidence over the phone on the first call; rather they will advise you how to engage with the Inquiry.

#### **Q: How will I know my letter has got to you?**

A: We will acknowledge all letters within five working days, providing a full response within 20 working days where one is needed.

#### **Q: Is the web email address secure?**

A: Yes. The web email account is password protected and only members of the Inquiry team have access to it. All members of the Inquiry team are security cleared to a minimum of 'Security Checked'.

#### **Q: Can I email you all my documents?**

A: Most documents can be emailed, but documents with a protective marking of SECRET and above must not be emailed for security reasons. Where documents of such a high classification need to be transported, the Inquiry team can advise and liaise with you to make sure that these documents are securely handled. If you have any doubts about the level of sensitivity of documents in your possession, please do contact the Inquiry team for advice and assistance.

#### **Q: What happens when I email the Inquiry?**

A: The Inquiry web email inbox is monitored from Monday to Friday, throughout the working day.

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### **Q: Do I need a solicitor or legal representation to provide evidence to the Inquiry?**

A: The decision on whether or not to get legal representation is one that only you can make, but the Inquiry team do not need you to have a lawyer for you to provide us with your evidence.

### **Q: If I give evidence to the Inquiry will I have to go to the hearings?**

A: We can't give you a full answer on that without knowing the nature of your evidence. However we can tell you that not everyone who provides us with a witness statement will need to go to a hearing to provide evidence in person.

### **Q: Can I be compelled to give evidence?**

A: The Chairman has the power to issue a notice requiring a person to attend and give evidence, but would much prefer if witnesses did so voluntarily. The Inquires Act 2005 makes a provision that a person may object to the Chairman's notice on the grounds that the requirement to give evidence is not reasonable in all the circumstances.

### **Q: When will the evidential hearings be?**

In a [Ruling dated 2 May 2017](#) the Chairman said that, in his view, it was safe to assume that the evidential hearings will not commence before the second half of 2019.

### **Q: What is a preliminary issue?**

Preliminary issues are legal or procedural matters which must be resolved before the evidential hearings can commence. To date the Inquiry has considered the following issues:

- the [standard of proof](#) that the Chairman should apply to issues of fact that arise in the evidence given to the Inquiry;
- whether (and, if so, on what terms) the Inquiry should seek [undertakings](#) from the Attorney General, the Metropolitan Police Service and/or others with regard the use of evidence given by witnesses to the Inquiry in criminal, disciplinary or other proceedings against them;
- the [legal principles](#) upon which the Chairman should decide applications for restriction orders under section 19(1) of the Inquiries Act 2005 (for example – applications for anonymity)
- the approach the Inquiry should take in respect of the [identities of deceased children](#) that were used for police purposes; and
- [applications](#) by the Metropolitan Police Service for an extension of time for restriction order applications on behalf of police officers formerly employed by the Special Demonstration Squad, and in respect of the Inquiry's approach to those restriction order applications.

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The Inquiry is currently considering the [Rehabilitation of Offenders Act 1974](#) and the effects it may have on the Inquiry's work.

## **Q: Who takes part in a preliminary hearing?**

The Chairman hears submissions from Counsel to the Inquiry and the legal representatives of core participants. However, people or organisations who are not core participants may also be permitted to make representations.

## **Q: Can anyone attend a preliminary hearing?**

Preliminary issues hearings are generally open to the public. However, it may be necessary for the Inquiry to hold some hearings in closed session. There will be a public gallery at each of the Inquiry's open hearings, and places allocated on a first come, first served basis. A number of spaces will also be reserved for the media.

## **CORE PARTICIPANTS**

### **Q: What is a 'core participant' and do I need to be one to engage with the Inquiry?**

A: You don't need to be a core participant to give evidence to the Inquiry.

The decision on whether or not you should apply for core participant status is one that only you can make, advised by a solicitor if you have one. In deciding whether to designate a person as a core participant, the Chairman will consider the criteria set out in the Inquiry Rules 2006. In particular, as Rule 5(2) makes clear, the Chairman will consider whether the person has played, or may have played, a direct and significant role in relation to the matters to which the Inquiry relates, or whether the person has a significant interest in an important aspect of the matters to which the Inquiry relates. These matters are defined by the terms of reference, which can be found [here](#).

The Chairman will also consider whether the person may be subject to significant or explicit criticism during the proceedings of the Inquiry, or in the report when it is written. A core participant need not be a core participant for the whole of the matters in the terms of reference or for the entire duration of the Inquiry; they may just be a core participant for a specific part.

### **Q: Who decides if I am a 'core participant'?**

A: The Inquiry Chairman, advised by the Counsel to the Inquiry, reviews all requests for core participant status.

### **Q: What does it mean to be a 'core participant'?**

A: Core participants can have access to all of the public evidence relevant to their particular interest in the case. In some cases, core participants can also have their reasonable legal

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costs paid. Section 40 of the Inquiries Act allows the Chairman to make awards for the cost of legal representation and the attendance of witnesses; these awards are not retrospective and do not cover costs incurred outside of the Inquiry.

Decisions on who can have legal costs covered are made on a case by case basis so applicants for core participant status should not assume that because they are a core participant that the Inquiry will cover their legal costs. The Inquiries Act 2005 requires that: “In making any decision as to the procedure or conduct of an inquiry, the chairman must act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or others)”.

### **Q: When will decisions on core participant status be made?**

A: If you have decided to apply to become a core participant, you should make the application as soon as possible. In deciding whether or not to grant core participation status, the Inquiry Chairman may take into account any delay that has occurred. If there has been any delay, this should be fully explained and reasons given.

### **Q: Do I need to be a core participant to get my legal costs paid?**

A: No, section 40 of the Inquiries Act 2005 gives the Chairman power to award expenses and legal costs to those who give evidence, whether or not they are core participants.

### **Q: How many core participants are there?**

A: A dedicated page on the Inquiry website provides the most up to date information about the Inquiry’s current core participants: <https://www.ucpi.org.uk/core-participants/>.

## **ACCESS TO INFORMATION**

### **Q: Can I request information from the Inquiry under the Freedom of Information Act 2000?**

A: The Freedom of Information Act 2000 does not apply to inquiries set up under the 2005 Inquiries Act, including the Undercover Policing Inquiry. However, in keeping with the spirit of the freedom of information, we operate in as transparent and open a manner as possible in accordance with the interests of justice. The Inquiry publishes regular updates notes on the progress of its work as well as quarterly costs.

### **Q: How do I get access to the Inquiry if I’m not giving evidence and not a core participant?**

A: The Inquiry is a public Inquiry and the Inquiry team will put all public evidence and information about the Inquiry’s work on our website.

Useful first points of contact for those wishing to find out more about the Inquiry are the Inquiry’s [terms of reference](#), the Inquiry’s [opening remarks](#) and the [regular updates](#)

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published on the Inquiry's website which include information on progress, as well as key facts and figures.

Transcripts of the hearings will be posted onto the website as soon as possible after a hearing, on the same day if at all possible. Lists of witnesses due to appear at the Inquiry will be posted on the website in advance of each hearing.

It is also possible for members of the public to attend most of the Inquiry's hearings, to hear first-hand the evidence being given.

### **Q: What do you mean by the term 'public evidence'?**

A: Public evidence is all the evidence that can be given publicly, whether orally or in writing. Because of the nature of the Inquiry's scope and the information being considered, some documentary evidence may be redacted or withheld from the general public or even from core participants, where sensitivity or other good reason leads the Chairman to determine that this appropriate. Likewise, the Chairman may decide that certain oral evidence should be given to the Inquiry without members of the public or some core participants being present at the hearing or having access to the transcript.

### **Q: In what circumstances would the Inquiry consider granting immunity from prosecution or other such action?**

A: The Chairman of an inquiry does not have the power to grant immunity from prosecution. However, the Inquiry has obtained a [letter](#) from the Attorney General granting an 'inquiry-specific' undertaking to enable it to meet its terms of reference. The undertaking means that the evidence witnesses give to the Inquiry will not be used against them (or against their spouse or civil partner) in any criminal proceedings, or when deciding whether to bring criminal proceedings. It will enable witnesses to give evidence to the Inquiry without fear of being investigated and prosecuted as a result of their own evidence.

### **Q: Why should people who have committed a crime benefit from an undertaking?**

A: The Inquiry's objective is to get to the truth. Therefore, it is important that witnesses can give open and honest evidence. Without the protection of the undertaking from the Attorney General, a witness might choose not to answer a question because to do so might leave them open to prosecution or the implication of others.

## **DISCLOSURE AND RESTRICTION ORDERS**

### **Q: How will the Inquiry handle disclosure?**

A: Disclosure is the process by which the Inquiry acquires the majority of its documentary evidence. The Inquiry has powers to compel individuals and organisations to provide documents that may be relevant to its terms of reference. All documents provided to the

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Inquiry are reviewed for relevance. Those providing documents may apply to the Chairman for information to be redacted for legal reasons, for example on grounds of personal security or wider sensitivity. The Chairman will consider such applications and, where appropriate, may grant a restriction order under section 19 of the Inquiries Act 2005. Personal information relating to individuals may also be redacted to comply with the Data Protection Act 1998.

### **Q: What are protective measures (restriction orders) and how is the Inquiry applying them?**

A: Protective measures are mechanisms put in place to ensure the safety of witnesses to the Inquiry. The term used to describe these measures is 'restriction order'. Restriction orders can be made to protect an individual's identity (their name, image or information about their family) or to restrict information contained within written documentary evidence. They may be used in documentary evidence or when a witness is providing evidence at oral hearings.

Witnesses will be given the opportunity to make an application to the Chairman for a restriction order to be put in place. Applications must meet certain legal criteria for a restriction order to be issued, including demonstrating the risk which might result from disclosure of the witness's identity. The Chairman will then make a ruling on whether to grant or reject the application either in full or in part, followed by a restriction order where one is needed. Rulings are posted to the website and are to be found on the [directions, rulings and orders page](#).

### **Q: How are applications for restriction orders determined?**

A: Restriction orders are made where the Chairman is satisfied an application for an order meets the tests set out in section 19 of the Inquires Act 2005. Restriction orders can be used to prevent information or evidence from being disclosed (for example by redacting documents, providing a gist of them, or withholding information), where sensitivity or other good reason leads the Chairman to determine that it would be inappropriate to release the full information. Restriction orders can also be used to grant anonymity to witnesses.

### **Q: Why might restriction orders for anonymity be needed?**

A: Restriction orders for anonymity can be sought by any witness to the Inquiry. Due to their particular circumstances some witnesses may require measures to protect their identity from public scrutiny, for example where disclosure of their identity may have a detrimental effect upon their private life, or put them at a risk of harm.

Restriction orders may be necessary in some circumstances to prevent exposure of a current or former undercover officer's identity. As part of their role in public protection, some officers may have undertaken a single role or multiple roles. Some undercover roles may put officers at a present and ongoing serious risk of injury, or in extreme cases, death. It may also, in some circumstances be necessary for the Chairman to hear evidence about

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why a current or former undercover officer's identity should not be exposed. In order not to undermine any restriction order the Chairman might subsequently make, this evidence cannot be heard in an open hearing. Although the hearing will be closed, the Inquiry will publish any relevant information from the closed hearing that is necessary to publish in the interests of fairness and which can be published without undermining the purpose of the hearing having been held in closed. The full detail of the approach the Chairman is taking in respect of restriction orders is detailed in the [Ruling of 3 May 2016](#).

The [directions, rulings and orders page](#) contains copies of any restriction orders made. Copies of the open versions of the anonymity applications are also on the website.

**Q: What does the Chairman consider in reaching his decisions in respect of restriction orders?**

A: The Ruling of 3 May 2016 sets out the legal principles and provides a full explanation of the Chairman's decision making process. In short, when weighing up and balancing competing interests on public interest grounds the Chairman has:

- (1) identified the public interest in non-disclosure;
- (2) assessed the risk and level of harm to the public interest that would follow disclosure of the information concerned;
- (3) identified the public interest in disclosure;
- (4) assessed the risk and level of harm to the public interest that would follow nondisclosure of the information; and
- (5) made in respect of the information a fact-sensitive assessment of the position at which the public interest balance should rest.

**Q: Why might there be a delay between when a Ruling on a restriction order was made and when it is published?**

A: A ruling may be published some days after it was completed in cases where the Inquiry needs to allow other agencies to have confidential sight of it before publication for the sole purpose of security checking: that is to say satisfying itself that the terms of the ruling do not disclose anything which the agency wish to argue to be restricted. This is standard practice in all matters that may have security implications and will be in place for the duration of the Inquiry.

In other circumstances the Inquiry will want to consult witnesses and core participants about the personal information contained in a ruling (or in a 'Minded to' note). This is so witnesses can see what the Chairman plans to say about them and have an opportunity to object to the wording, on the grounds that it would have the effect of identifying them and therefore undermine any restriction order the Chairman is minded to make.

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### **Q: What happens if the Chairman declines to grant a restriction order?**

A: If the Chairman declines to make a restriction order, or declines to make a restriction order as extensive as that sought by the applicant, he will notify the applicant prior to revealing the information over which the order was sought. Subject to any challenge to the Chairman's decision being filed in accordance with section 38 of the Inquiries Act 2005 within 14 days, the information may then be released to such core participants as may be appropriate and may be published on the Inquiry's website.

### **DECEASED CHILDREN'S IDENTITIES**

#### **Q: How will the Inquiry find out that the names of deceased children have been used?**

A: The Inquiry is collecting evidence from a number of bodies. In particular, the Inquiry expects the evidence from police bodies to identify where the name of a deceased child has been used to create a covert identity for the purposes of undercover policing.

#### **Q: Do parents of a deceased child need to come forward in order for the Inquiry to get at the truth?**

A: The Inquiry welcomes engagement from all those with an interest in helping it get to the truth; however the Inquiry will be investigating the issue whether or not families come forward. The [ruling dated 14 July 2016](#) gives a commitment that the Inquiry will do its best to seek out the parents of deceased children when and where it is in a position to let them know that the name of their child has been used. Coming forward does mean that the Inquiry will be able to take into account the interest of the family. If their child's name was used, and that fact can be disclosed, then it will make establishing contact much easier.

#### **Q: When will the Inquiry be in a position to notify parents?**

A: In cases where the Inquiry discovers that a deceased child's name was used, and decides provisionally that it can publish that fact, the Inquiry will seek to find and inform next of kin as soon as it can. There may be instances where the Inquiry will not be able to let parents know because it is necessary to restrict publication of the name for good reason (e.g. where it would put the undercover police officer who used it at such risk of harm that it outweighs the interest in publishing it). For reasons which are explained in the Ruling, the Chairman will decide once investigations have been completed what can be said to families who have expressed an interest but whose deceased child's identity was not used by an undercover police officer.

October 2017