

## COUNSEL TO THE INQUIRY'S EXPLANATORY NOTE TO ACCOMPANY THE 'MINDED TO' NOTE (2) IN RESPECT OF APPLICATIONS FOR RESTRICTIONS OVER THE REAL AND COVER NAMES OF OFFICERS OF THE SPECIAL OPERATIONS SQUAD AND THE SPECIAL DEMONSTRATION SQUAD

UPDATE as at 14<sup>th</sup> November

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### Introduction

1. On 3 August 2017 and 23 October 2017 the Chairman published 'Minded To' and 'Supplementary Minded To' notes regarding applications by the Metropolitan Police Service to the Inquiry for restriction orders regarding the real and/or cover names of a number of Special Demonstration Squad officers.
2. This is an update to Counsel's Explanatory Note published on 3 August 2017 and deals with four matters:
  - (i) An update to the position regarding the officers in the 1 June and 1 July tranches which were the subject of either determination in the case of HN7 or the Minded To note published on 3 August whose applications will, where necessary, be considered at the hearing fixed for 20-22 November 2017;
  - (ii) An explanation of the applications for restriction orders over cover and/or real names of Special Demonstration Squad officers received since the 1 June and 1 July tranches;
  - (iii) A short explanation of the generic evidence published with this note;
  - (iv) A short explanation of the separation process.
3. For the avoidance of doubt, despite updated information appearing in the below table, it is the restriction order applications set out in the Minded To notes published in August and October that will be the subject of the oral hearings scheduled for 20<sup>th</sup> to 22<sup>nd</sup> November 2017.
4. Regarding the provisional indication of the restriction of real name only, the nominals are: HN16, HN26, HN68, HN81, HN104, HN294, HN297, HN321, HN326, HN329, HN330.

## UNDERCOVER POLICING INQUIRY

5. Regarding the provisional indication of the restriction of cover name only, the nominal is: HN58.
6. Regarding the provisional indication of the restriction of real and cover name, the nominals are: HN123, HN333.

**(i) 1 June and 1 July tranche**

Nominal	Minded To Position
HN2	Moved to 31/10/17 deadline.
HN7	Order restricting publication of real and cover name made pursuant to application and published on 4 September 2017. (This is the final position and not a Minded To position).
HN15	There will be a closed hearing to consider this application but at present the Chairman's provisional decision is that <b>Real and Cover names will be published.</b> Application for real and cover name restriction order.
HN16	<b>Cover name will be published.</b> Real name will be restricted. Application for real and cover name restriction order. A closed hearing took place where the legal representatives for HN16 (Slater & Gordon), for the Commissioner for the Metropolitan Police Service and for the Inquiry were in attendance. Open versions of the applications and supporting evidence are published with this note.
HN26	<b>Cover name will be published.</b> Real name will be restricted. Application for real and cover name restriction order. A closed hearing took place where the legal representatives for HN26 (Slater & Gordon), for the Commissioner for the Metropolitan Police Service and for the Inquiry were in attendance.
HN58	<b>Real name will be published.</b> Cover name will be restricted. Application for real and cover name restriction order. This is a revision of the Minded To position in the 3 August 2017 note and the Chairman has invited submissions on this alternative course. A short closed hearing may be required.
HN68	<b>Cover name will be published.</b> Real name will be restricted. Application for real and cover name restriction order.

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Nominal	Minded To Position
HN81	<p><b>Cover name will be published.</b> Real name will be restricted. Application for real and cover name restriction order.</p> <p>A closed hearing took place where the legal representatives for HN81 (Slater &amp; Gordon), for the Commissioner for the Metropolitan Police Service and for the Inquiry were in attendance.</p>
HN104	<p><b>Cover name has been published.</b> Real name will be restricted. Application for real name restriction order.</p> <p>The Chairman invited reconsideration by the non-police, non-state core participants' as to their stance on this application.</p>
HN108	<p><b>Real name will be published.</b> Management/ back office staff. No cover name. No application made.</p>
HN120	<p><b>Real name will be published.</b> Management/ back office staff. No cover name. No application made.</p>
HN123	<p>Neither the real nor cover name will be published. Application for real and cover name restriction order. No further evidence supplied in support of this application can be published without detrimental impact on the mental ill health of this officer referred to within the 3 August 2017 Minded To note.</p>
HN146	<p><b>Real name will be published.</b> Management/ back office staff. No cover name. No application made.</p>
HN204	<p><b>Real name will be published.</b> Management/ back office staff. No cover name. No application made.</p>
HN294	<p>Officer deceased and no cover name is known. Real name will be restricted. Application for real name restriction order.</p>
HN297	<p><b>Cover name has been published.</b> Real name will be restricted. Application for real name restriction order.</p>
HN321	<p><b>Cover name will be published.</b> Real name will be restricted. Application for real and cover name restriction order.</p>
HN323	<p><b>Real name will be published.</b> Officer now deceased and no cover name known. No application made.</p>
HN325	<p><b>Real name will be published.</b> Management/ back office staff. No cover name. Officer now deceased. No application made.</p>
HN326	<p><b>Cover name has been published.</b> Real name will be restricted. Application for real name restriction order.</p>

## UNDERCOVER POLICING INQUIRY

Nominal	Minded To Position
HN327	<b>Real name will be published.</b> Officer now deceased and no cover name known. No application made.
HN328	<b>Real name will be published.</b> Management/ back office staff. No cover name. No application made.
HN329	<b>Cover name has been published.</b> Real name will be restricted. Application for real name restriction order.
HN330	<b>Cover name will be published subject to receipt of any application to restrict it.</b> Real name will be restricted. Application had been for restriction of real name only as cover name was not known. Subsequently cover name has been discovered and the report assessing the risk of publication is being compiled. A month for completion of this work by the Metropolitan Police Service has been requested.
HN333	Neither the real nor cover name can be published. Application for real and cover name restriction order.
HN335	<b>Real name will be published.</b> Officer now deceased and no cover name known. No application made.
HN343	<b>Cover name will be published.</b> Real name will be restricted. Application for real name restriction order.
HN345	Moved to 31/10/17 deadline.
HN1251	<b>Real name will be published.</b> Management/ back office staff. No cover name. No application made.

(ii) August tranche

Nominal	Minded To Position
HN1	<b>Cover name will be published.</b> Real name will be restricted. Application for real name restriction order. Evidence assessing risk of harm and personal impact consequent on publishing names was supplied to the Inquiry.
HN23	Neither the real nor cover name will be published. Application for real and cover name restriction order. Evidence assessing risk of harm and personal impact consequent on publishing names was supplied to the Inquiry.

## UNDERCOVER POLICING INQUIRY

Nominal	Minded To Position
HN40	Neither the real nor cover name will be published. Application for real and cover name restriction order. Evidence assessing risk of harm and personal impact, including on mental health, consequent on publishing names was supplied to the Inquiry.
HN45	<b>Cover name will be published.</b> Real name will be restricted. Application for real and cover name restriction order. Evidence assessing risk of harm and personal impact consequent on publishing names was supplied to the Inquiry.
HN78	The full extent of restriction sought in this case is unknown. An extension is sought to supply this application by the MPS DL team.
HN86	The full extent of restriction sought in this case is unknown. An extension is sought to supply this application by the MPS DL team.
HN127	Moved to 31/10/17 deadline.
HN216	<b>Real name will be published.</b> Cover name may be restricted. Application for a real name restriction at this stage. Evidence assessing the personal impact consequent on publishing the name was supplied to the Inquiry.
HN241	Neither the real nor cover name will be published. Application for real and cover name restriction order. Evidence assessing risk of harm and personal impact consequent on publishing names was supplied to the Inquiry.
HN298	<b>Cover name will be published.</b> Real name will be restricted. Application for real name restriction order. Evidence assessing risk of harm consequent on publishing names was supplied to the Inquiry.
HN318	<b>Real name will be published.</b> Management/ back office staff. No cover name. Officer now deceased. No application made.
HN322	Real name will be restricted. No cover name known. Application for real name restriction order. Evidence assessing risk of harm and personal impact consequent on publishing name was supplied to the Inquiry.
HN331	Moved to 31/10/17 deadline.
HN334	<b>Cover name will be published.</b> Real name will be restricted. Application for real name restriction order. Evidence assessing risk of harm and personal impact consequent on publishing names was supplied to the Inquiry.

## UNDERCOVER POLICING INQUIRY

Nominal	Minded To Position
HN336	<b>Cover name will be published.</b> Real name will be restricted. Application for real name restriction order. Evidence assessing risk of harm and personal impact consequent on publishing names was supplied to the Inquiry.
HN344	Moved to 31/10/17 deadline.
HN347	<b>Cover name will be published.</b> Real name will be restricted. Application for real name restriction order. Evidence assessing risk of harm consequent on publishing names was supplied to the Inquiry.
HN348	Real name will be restricted. No cover name known. Application for real name restriction order. Evidence assessing risk of harm and personal impact consequent on publishing name was supplied to the Inquiry.

### September tranche

Nominal	Minded To Position
HN17	Moved to 31/10/17 deadline.
HN24	Extension sought to move this officer to a future tranche.
HN33	Extent of restriction sought by this officer is unclear. The Metropolitan Police Service to clarify.
HN56	Moved to 31/10/17 deadline.
HN64	Moved to 31/10/17 deadline.
HN72	Extension sought to move this officer to a future tranche.
HN88	Moved to 31/10/17 deadline.
HN89	<b>Real and cover name will be published.</b> Officer is deceased. No application made.
HN109	Extension sought to move this officer to a future tranche.
HN129	Extension sought to move this officer to a future tranche.
HN218	<b>Cover and real name will be published.</b> No application made.
HN301	Moved to 31/10/17 deadline.
HN332	Moved to 31/10/17 deadline.

## UNDERCOVER POLICING INQUIRY

Nominal	Minded To Position
HN337	Neither the real nor cover name will be published. Application for real and cover name restriction order. Evidence assessing risk of harm and personal impact consequent on publishing names was supplied to the Inquiry.
HN338	Officer deceased and no cover name is known. Real name will be restricted. Application for real name restriction order. Evidence assessing the impact to family supplied to the Inquiry.
HN339	Extension sought to move this officer to a future tranche.
HN341	Moved to 31/10/17 deadline.
HN342	Extension sought to move this officer to a future tranche.
HN346	<b>Real name will be published.</b> No cover name known. Officer is deceased. No application made.
HN356	Moved to 31/10/17 deadline.
HN367	Further information is required before the Inquiry can progress this application.
HN593	<b>Real name will be published.</b> Management/ back office staff. No cover name. Officer now deceased. No application made.
HN3093	<b>Real name will be published.</b> Management/ back office staff. No cover name. No application made.
HN3095	<b>Real name will be published.</b> Management/ back office staff. No cover name. No application made.

### 31/10/17 tranche

Nominal	Minded To Position
HN2	<b>Cover name and real name will be published.</b> No application for restriction order over cover or real name made.
HN17	Neither the real nor cover name will be published. Application for real and cover name restriction order. Evidence assessing risk of harm and personal impact, including on mental health, consequent on publishing names was supplied to the Inquiry.
HN34	<b>Real name will be published.</b> Management/ back office staff. No cover name. No application made.

## UNDERCOVER POLICING INQUIRY

Nominal	Minded To Position
HN56	The full extent of restriction sought in this case is unknown. An extension is sought to supply this application by the MPS DL team.
HN64	Neither the real nor cover name will be published. Application for real and cover name restriction order. Evidence assessing risk of harm consequent on publishing names was supplied to the Inquiry.
HN88	<b>Cover name will be published.</b> Real name will be restricted. Application for real and cover name restriction. Evidence assessing risk of harm and personal impact consequent on publishing names was supplied to the Inquiry.
HN99	<b>Real name will be published.</b> Management/ back office staff. No cover name. No application made.
HN127	<b>Real name will be published.</b> Cover name may be restricted. Application for a real name restriction at this stage. No evidence supplied beyond submissions in application.
HN244	The full extent of restriction sought in this case is unknown. An extension is sought to supply this application by the MPS CL team.
HN301	<b>Cover name will be published.</b> Real name will be restricted. Application for real name restriction order. Evidence assessing risk of harm and personal impact consequent on publishing names was supplied to the Inquiry.
HN331	Officer deceased and no cover name is known. Real name will be restricted. Application for real name restriction order. Evidence assessing risk of harm supplied to the Inquiry.
HN332	Real name will be restricted. Management/ back office staff. No cover name. Application for real name restriction order. Evidence of impact of medical health supplied to the Inquiry.
HN341	Neither the real nor cover name will be published. Application for real and cover name restriction order. Evidence assessing risk of harm and personal impact consequent on publishing names was supplied to the Inquiry.
HN344	Further information needs to be sought before any provisional decision in this case can be reached.



## UNDERCOVER POLICING INQUIRY

Nominal	Minded To Position
HN345	<b>Cover name will be published.</b> Real name will be restricted. Application for real name restriction order. Evidence assessing risk of harm and personal impact consequent on publishing names was supplied to the Inquiry.
HN353	The full extent of restriction sought in this case is unknown. An extension is sought to supply this application by the MPS DL team.
HN356	Extension sought to move this officer to a future tranche.
HN1668	<b>Real name will be published.</b> Management/ back office staff. No cover name. No application made.
HN2152	<b>Real name will be published.</b> Management/ back office staff. No cover name. No application made.

**(iii) Further generic evidence relied on in support of applications to restrict names of officers.**

7. On 3 August 2017 the Inquiry published revised redacted versions of generic evidence submitted in support of applications for anonymity made by former undercover officers, consisting of
  - i. the Risk Assessment Briefing Note;
  - ii. the 'Cairo' statement dated 20 July 2017; and
  - iii. the Mosaic Report.
  
8. Following the publication of those documents the Non Police Non State Core Participants made submissions about the redactions that had been made to them. Those submissions can be found as an annex to the main submissions of the Non Police Non State Core Participants dated 5 October 2017 ('Annex – Generic Evidence'). Having considered them, the Inquiry legal team re-considered the redactions identified by the Non Police Non State Core Participants, and remains of the view that none of the redacted content can properly be disclosed or published at this time. However, it was concluded that some further information could be provided

about the reasons why redactions had been made. The Inquiry has therefore produced three tables [links] to provide this further information.

9. Those submissions also sought the exhibits to the 'Cairo' statement.
10. The Inquiry is now publishing
  - i. Eight exhibits to the 'Cairo' statement;
  - ii. Two annexes to the Risk Assessment Briefing Note – Annex A and Annex E; and
  - iii. Extracts from a witness statement made by Chief Constable Pughsley dated 27 September 2017.
11. The Inquiry is not publishing one further exhibit to Cairo's statement, the whole of which requires to be withheld because it relates to an officer whose anonymity application is yet to be determined.
12. The Inquiry is not publishing Annexes B - D to the Risk Assessment Briefing Note on grounds of relevance. Annex B is a document explaining the 'PLAICE' Risk Model, which it was intended should be used to conduct risk assessments; however this model is no longer being used. Annex C is a draft Statement of Expectation between former SDS officers and the MPS, with a brief covering minute dated 13 July 2011. The draft Statement of Expectation is set out in full in any event at paragraph 3.9 of the Risk Assessment Briefing Note. Annex D provides career histories for the officers 'Jaipur' and 'Karachi'. These were provided at a time when 'Jaipur' and 'Karachi' were expected to prepare the risk assessments which would be relied on in anonymity applications; however they are not fulfilling this role and new risk assessors have been appointed.
13. The Mosaic Report has no exhibits or annexes.
14. The witness statement of Chief Constable Pughsley dated 27 September 2017 was submitted to the Inquiry by the National Police Chiefs' Council as part of the "Closed Generic Evidence" described in the Restriction Protocol at paragraphs 8-13. The Inquiry legal team continues to work with the National Police Chiefs' Council and others to determine what parts of that statement can properly be published as "Open Generic Evidence". In the meantime, the Metropolitan Police Service has indicated its intention to rely on certain paragraphs of the statement in support of anonymity applications currently being made. Therefore, the Inquiry has extracted those paragraphs and is publishing those parts which can be published now, in advance of the forthcoming hearing on 20-22 November 2017.

15. Some names in these documents have been replaced with numbers preceded by the initials "PN". These are 'provisional nominals', cyphers allocated by the Inquiry to individuals who are not part of the current anonymity tranches; who the Inquiry legal team takes the view are or may be relevant individuals in the Inquiry and therefore whose appearance within documents should be capable of being identified; who may make an application for anonymity or other restriction of their identity in due course; and who cannot therefore be named in advance of the determination of any application without undermining that anticipated application. The allocation of 'provisional nominals' will be re-visited during the course of the Inquiry. This approach allows the Inquiry to publish necessary evidence relevant to preliminary issues without needing to determine all anonymity applications and privacy issues first.
16. A further witness statement produced by the College of Policing from the witness Louise Meade, dated 20 October 2017, is also being prepared for publication before the hearings on 20-22 November. The witness statement was obtained by the Inquiry as part of its Module 2 investigations, in particular in relation to the selection and recruitment of undercover officers. However, the Inquiry legal team takes the view that in light of the submissions made and generic evidence relied upon by the Metropolitan Police Service and other police bodies in support of applications for anonymity, some of the information in it (but not its exhibits) is relevant and necessary for the purposes of the forthcoming hearing.

**(iv) Separation Process**

17. In separating open parts from the closed applications seeking restriction orders over cover and/or real names of the SDS police officers and evidence supplied in support, material has been redacted or gisted where to publish it:
  - (a) would defeat the purpose of the application being made. Such details may include but are not limited to the field and/or name of the group(s) infiltrated by an officer and the years between which the infiltration lasted from which the public may be able to identify the officer, details in the public domain that would identify the officer if linked to the published application, identifying features of an officer's career held on their personnel file e.g. commendations;
  - (b) would defeat the purpose of another person's restriction order application (including applications which might be made but have not yet been invited);
  - (c) would mean that the Inquiry was not acting lawfully (including, for example, private medical information about an officer where a restriction may be refused and so may be linked to the officer in their real name);

(d) would not assist core participants to participate in the anonymity applications process, and at this stage of the Inquiry (i.e. where the documents being published are not the evidence on which the Inquiry will ultimately found its report) to ask the donor of the material, often the Metropolitan Police Service, to investigate whether it is safe to publish would cause significant delay

18. This separation exercise was pursued in respect of the June and July tranches of anonymity applications and is being pursued in respect of the August tranche. The exercise is time consuming and uses significant resources within both the Inquiry legal team and the Metropolitan Police Service teams. It is for this reason that the Mindful To note (2) setting out provisional decisions regarding officers in the August, September and October tranches is being published before the open supporting evidence for the August tranche is ready for publication so that those following the Inquiry can see the provisional decisions sooner. Directions will follow.