

## IN THE UNDERCOVER POLICING INQUIRY

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### SUBMISSIONS OF GUARDIAN NEWS AND MEDIA LIMITED in response to “*minded to*” note of 20<sup>th</sup> December 2017

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1. This note is provided on behalf of Guardian News and Media Limited (“GNM”) in response to the Chairman’s “*minded to*” note, dated 20<sup>th</sup> December 2017, in respect of HN58. GNM has previously addressed this case (and associated applications in respect of other officers) in written submissions dated 4<sup>th</sup> October 2017 and 20<sup>th</sup> November 2017. Those submissions are repeated in full. In addition, GNM makes the following three points.
2. HN58’s case requires particular openness. His importance, both as an undercover officer and as the detective chief inspector in charge of the Special Demonstration Squad between 1997 and 2001, is obvious. The fact that he had such direct involvement in the deployment of an undercover officer with the Stephen Lawrence campaign puts this beyond doubt. The questions facing HN58 at this inquiry include such important matters as: HN58’s authorization of the deployment of N81, HN58’s managerial involvement in the infiltration of the Stephen Lawrence campaign (as investigated by the IPCC), and HN58’s apparent role in seeking to prevent Peter Francis in having his deployment disclosed to the McPherson inquiry.<sup>1</sup>
3. Given the importance of his evidence and the seniority of his role, particularly compelling reasons ought to be put forward in order to justify making a restriction order in respect of both his real and his cover name. Such evidence has not been presented (indeed, no meaningful detail of the alleged risk has been set out). There is no suggestion of a risk of breach of Articles 2 or 3 ECHR. The risk must be manageable enough to permit HN58 to give

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<sup>1</sup> Press reports have suggested that “*senior officers*” within the Special Demonstration Squad (who presumably included HN58) “*deliberately chose to withhold [Peter Francis]’ role spying on the Lawrence campaign from Sir William Macpherson...*”. See, for example, *The Guardian*, 24<sup>th</sup> June 2013, “*Police ‘smear’ campaign targeted Stephen Lawrence’s friends and family*”, available online at: [https://www.theguardian.com/uk/2013/jun/23/stephen-lawrence-undercover-police-smears?CMP=share\\_btn\\_link](https://www.theguardian.com/uk/2013/jun/23/stephen-lawrence-undercover-police-smears?CMP=share_btn_link)

evidence in public, using his own voice. The risk is described as “*small, but real*”.

4. The Chairman justifies the restriction on the basis of protecting H58’s identity in respect of his work as an undercover officer. The Chairman places weight on the suggestion that “*there is no known allegation of misconduct against him when deployed as an undercover officer*”. This puts the cart before the horse. It is difficult to see how anyone could make an allegation of misconduct against him before his real or cover name is revealed. In its submissions of 4<sup>th</sup> October 2017, at §6(d), GNM drew attention to the role of openness in helping to ensure that evidence becomes available. Revealing HN58’s real or cover name would help allow those involved with him to give evidence about (and make allegations against) him. This submission is consistent with the Chairman’s public statement following the application made by Richard Chessum to be added as a core participant. As the Chairman indicated in that ruling, he hoped that publication of the cover names of deployed undercover officers would help to prompt others to give potentially significant evidence.<sup>2</sup> By restricting both his name and his cover name, the Chairman prevents relevant witnesses from being able to give any evidence at all about HN58 and therefore shuts out an important avenue of investigation for this inquiry.
5. For these reasons, and those set out in GNM’s previous submissions, the inquiry is respectfully invited to reveal the real and/or cover names of HN58.

JUDE BUNTING  
Doughty Street Chambers  
18<sup>th</sup> January 2018

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<sup>2</sup> <https://www.ucpi.org.uk/wp-content/uploads/2017/12/20171204-ruling-core-participants-number-15-pdf.pdf>, at §2.