

# 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 Demonstration Squad

## 'Minded To' Note 6 and Ruling 4

### Applications

1. The Inquiry has considered applications received in respect of 17 further individual officers. I am minded to make or to refuse to make restriction orders under section 19(3) of the Inquiries Act 2005 in the cases specified in the table below.
2. In the cases of HN3 and HN60 by way of ruling, I refuse to make restriction orders in respect for their cover names.

Nominal	Position
HN3	The real name cannot be published. I refuse to make a restriction order in respect of cover name.
HN22	No application made.
HN33	The real name cannot be published. I refuse to make a restriction order in respect of the cover name.
HN44	The real name cannot be published.
HN56	The real name cannot be published.
HN60	The real name cannot be published. I refuse to make a restriction order in respect of cover name.
HN65	The real name cannot be published. I refuse to make a restriction order in respect of the cover name.
HN67	The real name cannot be published.
HN72	<i>Awaiting further information</i>
HN77	The real name cannot be published.
HN78	The real name cannot be published. I refuse to make a restriction order in respect of the cover name.
HN79	The real name cannot be published.
HN80	The real name cannot be published. I refuse to make a restriction order in respect of cover name.
HN90	The real name cannot be published. I refuse to make a restriction order in respect of the cover name.
HN112	The real name cannot be published. I refuse to make a restriction order in respect of the cover name.

## UNDERCOVER POLICING INQUIRY

HN118	The real name cannot be published. The cover name 'Simon Wellings' has already been published.
HN200	The real name cannot be published.
HN306	No application made.
HN307	No application made.
HN349	Neither the real or cover name can be published.

### Reasons

*HN3 Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of cover name is refused.*

1. HN3 retired from the Metropolitan Police Service, but is still gainfully employed. HN3 was deployed against three groups between the late 1990s and the mid-2000s. The deployments were unremarkable and give rise to little or no risk of violence from any member of the target groups. HN3 is concerned about the risk of harassment by them, a concern which is not irrational. If it were to materialise, it would interfere significantly with the private and family life of HN3. It is not necessary to run that risk. The cover name of HN3 will be published and will permit members of the target groups and others to provide information and give evidence about the deployments. Publication of the real name of HN3 is not necessary to permit that to happen or to enable the Inquiry to fulfil its terms of reference. In those circumstances, publication of the real name is neither proportionate nor justified under Article 8(2) of the European Convention on Human Rights ('the European Convention').
2. The closed note which accompanies these reasons sets out the reasons for refusing to make a restriction order in respect of the cover name of HN3. They include the need to permit members of target groups to provide information and give evidence about the deployments.

*HN33 Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of cover name is refused.*

3. HN33 is a sexagenarian who was principally deployed into one group in the mid-1980s. The deployment is of significant interest to the Inquiry, because the group was non-violent and posed no serious threat to public order. The reason for the deployment must be publicly investigated to permit the Inquiry to fulfil its terms of reference. HN33 appears to have been the only undercover officer deployed into this group. The publication of the cover name of HN33 is

## UNDERCOVER POLICING INQUIRY

necessary to permit former members of the group to provide information and/or give evidence about the deployment. They pose no threat to the safety of HN33. There is a small risk that publication of the cover name would lead to the identification of the real name of HN33, which may give rise to unwelcome media attention. It would not give rise to anything worse. It is the price which must be paid to permit the Inquiry to conduct a full investigation into the deployment.

4. Publication of the real name is not required to permit the Inquiry to fulfil its terms of reference. It would interfere with the right to respect for private and family life of HN33 and would be neither proportionate nor justified under Article 8(2) of the European Convention.
5. A closed note accompanies these reasons.

*HN44 Application for restriction over real name. The real name cannot be published.*

6. HN44 is a serving Metropolitan Police officer. In the last period of existence of the Special Duties Squad he was deployed to build a legend to permit him to infiltrate violent elements of one group. The Special Duties Squad was closed and his deployment was ended before he had succeeded in doing so. His evidence about the closure of the Squad is likely to be of interest to the Inquiry. In the (very) unlikely event that any member of the target group can provide or wishes to provide any information about him, publication of his cover name, which will occur, is all that is required to prompt them to do so. Publication of his real name would give rise to a real risk of interference in the private and family life of HN44 and his family and a contingent risk to their safety. It is not necessary to permit the Inquiry to fulfil its terms of reference. It would be neither proportionate nor justified under Article 8(2) of the European Convention.

*HN56 Application for restriction over real name. The real name cannot be published.*

7. HN56 is a sexagenarian. He was deployed for about a year in the early 1990s into the moribund branch of one potentially violent group. He has no concern about the publication of his cover name, which will occur. Publication of his real name is not necessary to permit the Inquiry to fulfil its terms of reference. It might give rise to unwelcome media attention and/or the slight risk of something worse. If either occurred, it would interfere with his right to respect for private and family life and would be neither proportionate nor justified under Article 8(2) of the European Convention.

## UNDERCOVER POLICING INQUIRY

*HN60 Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of cover name is refused.*

8. HN60 is a serving Metropolitan Police officer. HN60 was deployed between the late 1990s and the mid-2000s against two groups, via a third. The deployments were unremarkable. There is a low risk of violence from members or associates of the target groups. HN60's principal concern is the risk of harassment by them, concern which is not irrational. If it were to materialise, it would interfere significantly with the private and family life of HN60. It is not necessary to run that risk. The cover name of HN60 will be published and will permit members of the target groups and others to provide information and give evidence about the deployments. Publication of the real name of HN60 is not necessary to permit that to happen or to enable the Inquiry to fulfil its terms of reference. In those circumstances, publication of the real name is neither proportionate nor justified under Article 8(2) of the European Convention.
9. The closed note which accompanies these reasons sets out the reasons for refusing to make a restriction order in respect of the cover name of HN60. They include the need to permit members of target groups to provide information and give evidence about the deployments.

*HN65 Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of cover name is refused.*

10. HN65 is a sexagenarian. HN65 was deployed against one group in the early 1980s. The deployment is of significant interest to the Inquiry. The group, which was well known, posed no serious threat to public order. Its members posed, and pose, no risk to the safety of HN65. One of the issues which the Inquiry must investigate, publicly, is why HN65 was deployed against the group and what, if anything, was done with intelligence provided on it by HN65. HN65 is likely to be the principal, perhaps only, source of information about these issues. Publication of the cover name of HN65, together with the name of the group infiltrated, should prompt further information and evidence from members of the group, likely to be of value to the Inquiry.
11. Publication of the real name is not necessary to permit the Inquiry to fulfil its terms of reference. There is no reason currently known to me which would require or justify publication of his real name. HN65 is concerned about unwelcome media attention and the possibility of interference in private and family life by others. I accept that the concerns are genuine and not irrational.

## UNDERCOVER POLICING INQUIRY

Although the risk of serious interference is not great, because it is unnecessary to run it, it would be neither proportionate nor justified to do so under Article 8(2) of the European Convention.

12. A closed note accompanies these reasons.

*HN67 Application for restriction over real name. The real name cannot be published.*

13. HN67 is a sexagenarian. He was deployed against one group in the 1980s. The threat posed to him by former members of that group is nil or negligible. He admits to a fleeting sexual encounter in his cover name with one woman who was not a member of his target group. He was directed by his target group to take activists North to assist striking miners, but was directed by his superiors not to do so and did not do so. Publication of his cover name, which will occur, will give those who encountered him when deployed the opportunity of providing information or giving evidence about his deployment.
14. HN67, as a Detective Inspector, was second in operational command of the Special Demonstration Squad for three years in the early 1990s. Nineteen undercover officers served under him, including several who are of significant interest to the Inquiry. Health permitting, he will be required to give public oral evidence about his discharge of his duties in this role. He has, however, for the last five years suffered from Parkinson's disease. According to his advising consultant neurologist for the last 2 – 3 years, his condition has deteriorated significantly in the last year. In her opinion, the stress already caused and likely to be caused to him by the need for him to participate publicly in the Inquiry, has led and will lead to a functional deterioration in his Parkinson's disease. His ability to recall events in the distant past in detail and accurately is likely to be impaired.
15. He participated in the "True Spies" programme, believing that it would be subject to editorial control by senior officers of the Metropolitan Police Service and was surprised and disappointed when it was not.
16. It is inevitable that the evidence of HN67 will attract substantial interest from the traditional and non-traditional media. He is concerned about the impact on his health and on the welfare of his family if he were to be publicly identified in his real name. Given the state of his health, his concerns are objectively justified. His evidence is potentially of great importance to the Inquiry. If worthwhile evidence is to be obtained from him, they must be addressed sympathetically. This requires that a restriction order be made in respect of his real name. It may

## UNDERCOVER POLICING INQUIRY

also require that his evidence is taken out of sequence, before his memory deteriorates further.

*HN77 Application for restriction over real name. The real name cannot be published.*

17. HN77 was deployed in the early 2000s against a number of anarchist and environmentalist groups. The risk posed to her physical safety from former members and associates of such groups is nil or negligible. Her evidence is likely to attract significant and unwelcome media interest. She has refused to cooperate with the Herne inquiry or the risk assessor instructed by the Metropolitan Police Service.
18. The evidence which she could provide to the Inquiry is, however, of significant interest, for at least the following reasons. She was deployed as an undercover officer, despite failing the psychometric testing then administered to would-be undercover officers. Much of her reporting was apparently regarded by senior officers as being of little value. A decision was made by a senior officer (HN36) to terminate her deployment on the basis that it could no longer be justified under the Regulation of Investigatory Powers Act 2000. She terminated her own deployment. She complained about her treatment by superior officers. All of these issues need to be publicly explored to permit the Inquiry to fulfil its terms of reference.
19. Her cover name will be published. It is not, at this stage, necessary to allow the above issues to be explored for her real name to be published. She has evidently demonstrated a wish to preserve her privacy. Infringement of it, and so of her right to private life would not, at this stage, be justified under Article 8(2) of the European Convention. If, however, it proves necessary for the Inquiry to serve a notice on her under section 21(1) or (2) of the Inquiries Act 2005 to provide a written statement or to attend to give evidence, it will be served on her in her real name and any steps required to be taken under section 36 will also be taken in her real name.

*HN78 Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of cover name is refused.*

20. HN78 is a sexagenarian. HN78 was deployed into two or three groups in the early 1990s. HN78 admits to a relationship with a member of the opposite sex during the deployment. The Inquiry must investigate deployments into these groups, including that of HN78, if it is to fulfil its terms of reference. It cannot do that adequately unless evidence is given about them publicly by those who

were deployed. Further, members of the target groups must have the opportunity to give evidence about the deployment of HN78. To do that, they will need to know the cover name. Nothing that I have yet learnt suggests that publication of the cover name of HN78 would give rise to a real risk to safety or that the need to do so would be outweighed by the interference in private and family life which might occur. Publication of the cover name would be justified under Article 8(2) of the European Convention.

21. The reasons for these conclusions are more fully set out in the closed note which accompanies this note. Publication of the real name of HN78 is not, at this stage, necessary to permit the Inquiry to fulfil its terms of reference or otherwise necessary to give effect to the rights of others. It would not therefore be proportionate or justified under Article 8(2) of the European Convention.

*HN79 Application for restriction over real name. The real name cannot be published.*

22. HN79 was the last undercover officer to be recruited into the Special Duties Squad. He was not fully deployed: the Squad was disbanded before he could be. He found the experience a stressful and unhappy one. He is a serving police officer and is concerned about the impact of the disclosure, in connection with his would-be role as an undercover officer in the Squad, of his real name on his current police duties and on his family. His concerns are not irrational. His cover name will be published. Publication of his real name is not necessary to permit the Inquiry to fulfil its terms of reference. It would interfere with his right to respect for private and family life and that of his family and would be neither proportionate nor justified under Article 8(2) of the European Convention.

*HN80 Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of cover name is refused.*

23. HN80 is a septuagenarian. HN80 was deployed as an undercover officer against one group in the late 1970s and early 1980s and encountered and reported on many others. The deployment is of significant interest to the Inquiry because of its length and range and because, according to HN80, it involved a good deal of self-tasking. Publication of the cover name of HN80 may prompt information or evidence from those who encountered HN80 during the deployment. Publication of the real name of HN80 is not necessary to permit the Inquiry to fulfil its terms of reference and would interfere with the right of HN80 to respect for private and family life. HN80 has expressed fears, which do

## UNDERCOVER POLICING INQUIRY

not appear to be objectively justified, about the risk of violence posed by former targets and their associates. I am prepared to accept that the fears are genuinely held. On the basis of what is at present known, it would be neither proportionate nor justified under article 8(2) of the European Convention to override those fears by refusing to make a restriction order in respect of the real name.

24. A closed note accompanies these reasons.

*HN90 Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of cover name is refused.*

25. HN90 is a sexagenarian. HN90 was deployed into one group, after a short deployment in another, in the late 1980s and early 1990s. The deployment appears to have been unremarkable. The risk to the safety of HN90 arising out of it is nil or negligible. The deployment is, nevertheless, of significant interest to the Inquiry, for at least two reasons: it spanned the period during which the Cold War ended and the focus of undercover deployments may have changed; and it included reporting on Poll Tax demonstrations. Fulfilment of the terms of reference of the Inquiry requires that these issues are explored publicly and that those with whom HN90 may have interacted have the opportunity of providing information or evidence about the deployment. This requires that the cover name of HN90 is published.

26. It does not require that the real name of HN90 is published. There is no reason currently known to me which would require or justify publication of his real name. HN90 is understandably concerned about the impact of the publication of the real name on the private and family life of HN90 and surviving relatives. These concerns are not irrational. It would be neither necessary nor proportionate to override them. The interference which it would cause to the private and family life of HN90 would not be justified under Article 8 (2) of the European Convention.

27. A closed note accompanies these reasons.

*HN112 Application for restriction over real and cover names. The real name cannot be published. The application for a restriction order in respect of cover name is refused.*

28. HN112 joined the Special Duties Squad in the last year of its existence. He worked in the back office and building his legend. He was not deployed. He had



## UNDERCOVER POLICING INQUIRY

a cover and code name, which will appear on internal documents. No good purpose would be served by requiring his cover or code name to be redacted from them. The information and evidence which he can provide to the Inquiry will concern his recruitment into the Squad and its disbandment. His mental health was fragile. The coincidence of the disbandment of the Squad and an event in his family life caused a sudden and serious deterioration in it. In the opinion of Dr McLaren, a consultant psychiatrist, publication of his real name would create a significant risk that his mental state would be destabilised again. There is no need to run that risk. It is not necessary to do so to fulfil the terms of reference of the Inquiry. The interference which it would occasion to the right to respect for his private life would be neither proportionate nor justified under Article 8(2) of the European Convention. In the opinion of Dr McLaren, no such risk would arise from publication of his cover name.

29. A closed note accompanies these reasons. The note is closed for reasons of medical confidentiality only.

*HN118 Application for restriction over real name. The real name cannot be published.*

30. HN118 is in his 50s, married and with children. He is economically active. He was deployed successively against three groups in the last years of existence of the Special Duties Squad. His cover name ("Simon Wellings") and the names of the groups against which he was deployed have been officially confirmed. There is no reason currently known to me which would require or justify publication of his real name. He is concerned that it would attract unwelcome media attention and give rise to a risk of harassment of his family and of interference in his work. I am satisfied that these concerns are genuine and not irrational. What has already been published will permit those with whom he interacted during his deployment to provide information and to give evidence about it, if they choose to do so. Publication of his real name is not necessary to permit the terms of reference of the Inquiry to be fulfilled. In those circumstances, the interference which it would cause with his right to respect for private and family life would not be proportionate or justified under Article 8(2) of the European Convention.

*HN200 Application for restriction over real name. The real name cannot be published.*

31. HN200 is a septuagenarian. He was deployed into one group in the late 1970s. His deployment appears to have been unremarkable. Publication of his cover

name, which will occur, may serve to prompt information and evidence from those with whom he interacted. Publication of his real name could not do so. There is no reason currently known to me which would require or justify publication of his real name. He and his wife are not in the best of health and are understandably concerned about the impact of attention from the traditional and non-traditional media on their private, family and social life. Their concerns are genuine and not irrational. The interference which would result in his right to respect for private and family life would not be proportionate or justified under Article 8(2) of the European Convention.

*HN349 Application for restriction over real and cover names. Neither real nor cover name can be published.*

32. HN349 is in his 70s. He had an unblemished police career and subsequent employment and has served the communities in which he has lived, as he still does. He was recruited to serve in the Special Operations Squad in the early 1970s and served for about a year. He adopted a cover name, which was not the name of a deceased child, but did not create a legend. He attempted to infiltrate anarchist groups by attending meetings, but failed to do so. He decided that undercover police work was not for him and, with the consent of his superior officers, left the field. He is concerned that if he were to be identified, he and his family would be the subject of unwelcome media attention. These concerns are genuine and not irrational. He also has concerns for his safety and for that of his family which, although genuine, are almost certainly misplaced. There is a small risk that if his cover name were to be published, his real name could be identified. It is very unlikely that his deployment needs to be investigated at all to permit the Inquiry to fulfil its terms of reference. If it does, witness statement from him is all that is likely to be required. Publication of his real or cover name would interfere, to some extent, with his right to respect for private and family life. It would be neither proportionate nor justified under Article 8(2) of the European Convention.

22 March 2018

Sir John Mitting  
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