

# 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 11**

#### **Applications**

- The Inquiry has considered applications received in respect of 20 further individual officers. I am minded to make or refuse to make restriction orders in respect of real or cover names in the cases referred to below.

<b>Nominal</b>	<b>Position</b>
HN4	The real name cannot be published. The application for a restriction order in respect of the cover name will be considered at a closed hearing.
HN18	The real name cannot be published. The application for a restriction order in respect of cover name is refused.
HN29	No application made.
HN30	The real name cannot be published.
HN36	No application made.
HN39	No application made.
HN49	No application made.
HN51	No application made, but see note below.
HN52	No application made.
HN69	No application made.
HN91	Neither the real name nor cover name can be published.
HN97	Neither the real name nor cover name can be published.
HN110	No application made.
HN126	The real name cannot be published. I refuse to make a restriction order in respect of the cover name.
HN129	No application made.
HN135	Consideration of the application for a restriction order in respect of the cover name is deferred until further information is available. The real name will be published.
HN217	No application made.
HN221	No application made.
HN314	No application made.
HN350	No application made.

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### Reasons

*HN4 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 will be considered at a closed hearing.*

2. HN4 was deployed into two branches of one group in the late 1980s and early 1990s. To permit the terms of reference of the Inquiry to be fulfilled, it is at least likely that evidence of and about the deployment must be given in public. This will require the evidence of HN4 to be provided or given in public as well.
3. HN4 suffers from two medical conditions. In the opinion of Professor Fox, who has prepared a report on HN4 dated 16 April 2018, publication of the real name would be likely to have a severe and irreversible impact on one of them. I accept that opinion. It is not necessary to permit the Inquiry to fulfil its terms of reference that the real name of HN4 should be published. In consequence, the interference in the right to respect for private and family life of HN4 which it would cause would not be justified under Article 8(2) of the European Convention on Human Rights (“the European Convention”). His opinion on the effect of publication of the cover name and/or of the provision of giving of evidence by HN4 is less clear. It is an issue which must be explored in a closed hearing.
4. A closed note accompanies these reasons.

*HN18 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.*

5. HN18 was deployed into at least two groups and reported on others in the last period of existence of the Special Demonstration Squad. The risk to the safety of HN18 posed by members of the targeted groups is negligible and the risk of interference by them in family and private life is low. The deployments are of interest to the Inquiry, as is the evidence which HN18 can give about the management and closing down of the Special Demonstration Squad. HN18 has expressed willingness to give evidence about those issues.
6. In the opinion of Prof Fox, who reported on the condition of HN18 on 12 March 2018, HN18 suffers from two moderately severe mental health conditions, which would be exacerbated by publication of the real or cover name. I accept that, if the real name were to be published, there is some risk of interference in the right of HN18 to respect for private and family life and of some impact on HN18’s mental health. Publication of

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the real name is not necessary to permit the Inquiry to fulfil its terms of reference. Accordingly, it would not be justified under Article 8(2) of the European Convention. However, for reasons which are explained in the closed note which accompanies these reasons, I am unconvinced that a restriction order in respect of the cover name of HN18 would have a material impact on mental health or well-being. Further, the giving of evidence about the deployments would be likely to lead members of targeted groups to identify HN18's cover name for themselves. A restriction order in respect of the cover name would, therefore, probably serve no useful purpose.

*HN30 Application for restriction over real name. The real name cannot be published.*

7. HN30 was a cover officer in the last years of existence of the Special Demonstration Squad. Performance of her duties as such did not and does not expose her to any risk of harm. For reasons particular to some of the undercover officers for whom she provided cover, a significant part of her evidence will have to be given in closed session, in any event. But for the matter referred to below, there would have been no reason why she should not give public evidence about the remainder of her duties in her own name.
8. During her police career, she participated in an operation which did give rise to a risk to her safety. To an extent that cannot be quantified now, that risk, although small, remains. It is not necessary to run it, to permit the Inquiry to fulfil its terms of reference. She will give evidence about performance of her Special Demonstration Squad duties, except that which has to be given in closed session, in public under her cypher. Nothing of value will be lost by her doing so. In those circumstances, the interference in her right to respect for an aspect of her private life – her physical integrity – which would be caused by publication of her real name would not be justified under Article 8(2) of the European Convention.
9. A closed note accompanies these reasons.

*HN51 No application for restriction is made.*

10. HN51 performed a back office role in the Special Demonstration Squad between 1981 and 1983. He was the Detective Chief Inspector in operational charge of the Special Demonstration Squad from November 1988 to July 1991. The evidence which he provided to Operation Herne, in particular about his time as Detective Chief Inspector, is of significant interest to the Inquiry. But for the matters referred to below, he would have been required to provide and give evidence to permit the Inquiry to fulfil its terms of reference.

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11. The Commissioner's lawyers have informed me that he has suffered 3 strokes, the last of which occurred in August 2017, and is seriously incapacitated. Officers who visited him on 1 May 2018 gained the impression that his condition has deteriorated significantly since May 2017. His mental acuity has been impaired, as has his ability to communicate with others and to articulate his thoughts. His speech is slurred and he required the assistance of his wife to express himself. His medical records have been requested and will be forwarded to the Inquiry. I have no reason to doubt any of this information. When I have seen his medical records, it is very likely that I will decide that he cannot participate in the Inquiry, by providing a witness statement or by giving oral evidence.

*HN91 Application for restriction over real and cover names. Neither real nor cover name can be published.*

12. HN91 was deployed against two groups in the last period of existence of the Special Demonstration Squad. None of the members of the target groups posed or pose a threat to the safety of HN91. But for the factor referred to below, I would not have made a restriction order in respect of the cover name. Evidence about the deployments must be received to permit the Inquiry to fulfil its terms of reference. Some, at least, of it will have to be given in closed session.
13. HN91 is a serving police officer, performing a valuable and sensitive role. If the cover name were to be published, there is a high risk that the real identity would be disclosed, in which event, HN91 could not continue to perform current duties. The risk of disclosure, by itself, would be likely to lead senior officers to transfer HN91 to other duties. It would not be in the public interest that this should occur. That interest outweighs the interests of the Inquiry in receiving public evidence about all aspects of the deployments of HN91.
14. Publication of the real name of HN91 is, in any event, 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 HN91 and HN91's family and would not be justified under Article 8(2) of the European Convention.
15. A closed note accompanies these reasons.

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*HN97 Application for restriction over real and cover names. Neither real nor cover name can be published.*

16. HN97 is in his 60s. He was deployed in the 1980s into one group and reported on many others. His deployment is of significant interest to the Inquiry and must be explored in detail to permit the terms of reference to be fulfilled. The group into which he was deployed posed no risk to public order or to him personally. Despite that, there would be a real risk, which cannot be precisely quantified, from sources which cannot now be identified, to his safety if his real or cover name were to be published and/or if certain details of his deployment were to be made public. Balancing the public interest in providing as much public information as possible about it against the need to protect his own safety and/or the public interest in ensuring that his real identity is not disclosed when evidence about his deployment is received will be a delicate and difficult task, which must be addressed soon.
17. The restriction orders which I am minded to make are necessary to avoid a risk of harm to HN97 and to avoid impairing the effectiveness of the Inquiry under section 19 (4) (b) and (d)(i). They are also necessary to avoid an unjustified risk of interference in the right of HN97 to respect for an aspect of his private life – physical integrity – and of his and his family's right to respect for private and family life under Article 8 of the European Convention.
18. A closed note accompanies and expands upon these reasons.

*HN126 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.*

19. HN126 is a septuagenarian who was deployed into two groups in the late 1970s and early 1980s. The deployment included activities which must be investigated publicly to permit the Inquiry to fulfil its terms of reference. To permit that to occur, the cover name of HN126 must be published, to afford members of the target groups the opportunity to give evidence about the deployment and its effects. None of the members of the targeted groups pose any risk to the safety of HN126, even if publication of the cover name were to lead to discovery of the real name and whereabouts of HN126, which is far from certain. The risk of harassment is negligible. The worst consequence likely to be faced by HN126 is unwelcome media attention. The risk of that occurring is a price which must be paid to permit the Inquiry to get at the truth.

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20. Publication of the real name of HN126 is not necessary to permit the Inquiry to fulfil its terms of reference. It would cause anxiety and stress to HN126 and the family of HN126 and would interfere with their right to respect for private and family life. It would not be justified under Article 8(2) of the European Convention.
21. A closed note accompanies these reasons.

21 June 2018

Sir John Mitting  
Chairman, Undercover Policing Inquiry