

## IN THE MATTER OF THE UNDERCOVER POLICING INQUIRY

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### GISTED SUMMARY OF GROUNDS FOR APPLICATION OF EN38

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1. EN38's application for a Restriction Order covering his/her covert and real identities is based on his/her article 2, 3 and 8 rights. EN38's principal contention is that there is an immediate risk to his/her life and his/her family's lives if real or covert identities are not protected by the Inquiry.
2. Prior to EN38's secondment to the NPOIU, he/she was involved in two undercover deployments targeting drugs supply offences. EN38 gave evidence from behind a screen during the ensuing prosecutions.
3. EN38 provides details of his/her secondment to the NPOIU including dates, the intended targets of the deployment, the choice of pseudonym and the risks of being traced.
4. EN38's statement provides a detailed account of the NPOIU operations and the immediate, substantial and obvious risks to his/her life and the lives of his/her family if real or covert identities are not fully protected by the Inquiry. EN38's application also asserts that there are risks to other undercover operatives and members of the public if his/her covert or real identities are revealed.
5. EN38 provides a list of individuals and groups that present a real risk to his/her life and highlights concerns that there may be many more known and unknown individuals who would present article 2 risks. EN38 had to prepare his/her statement without access to any NPOIU documents.
6. Following the conclusion of the NPOIU deployment, EN38 was deployed as an undercover officer. EN38 provides a summary of the operations in which he/she has been deployed which raise risks to his/her article 2, 3 and 8 rights if his/her covert or real identities are disclosed.

7. EN38's application refers to his/her current role and asserts that there is a substantial risk arising from the targets of this operation.
8. EN38 remains available and willing to be deployed in an undercover role and this will not be possible if his/her real identity is revealed.
9. EN38's application raises numerous and substantial issues concerning the risks to his/her life and that of his/her family. EN38's application provides a credible and categorical explanation as to why his/her real and covert identities must not be released in order to protect EN38's life and the lives of EN38's partner, family, other undercover operatives and members of the public. The application makes it evident that there are immediate and substantial risks of death or serious injury. Relocation and witness protection would not provide them with reassurance and would be a significantly disproportionate interference with their human rights.
10. EN38 is immensely concerned that the revelation of the undercover name could easily reveal his/her real identity.
11. The application states that there is the obvious potential for social media and cyber-attacks and attempts at destroying EN38's reputation. EN38's and his/her family's article 3 rights would be severely infringed as a consequence of disclosure of his/her real and covert names.
12. There would be incalculable distress caused to EN38's family if they had to move away from their home and community. EN38 contends that their article 8 rights would be disproportionately and unjustifiably infringed if the application is unsuccessful. They would be unable to remain in their existing home and would have to be placed into some form of witness protection programme. This would severely damage their careers with the consequential impact on their earnings. It would also cause irreparable damage to their personal relationships and family lives extending to their ability to remain in contact with, and care for, elderly parents.
13. It is submitted that the article 2 risks are so manifest that there is no requirement to obtain a risk assessor's report. The Inquiry is invited to consider this application as a priority and to grant EN38's request for anonymity covering covert and real names. In addition to the clear article 2 risks to EN38 which would result from disclosure of his/her

real or cover names, there are clear article 3 risks and there would be a substantial and unjustifiable interference with the article 8 rights of EN38 and his/her family.

**7 July 2017**