

# IN THE MATTER OF THE UNDERCOVER POLICING INQUIRY

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## APPLICATION FOR RESTRICTION ORDER (ANONYMITY) IN RESPECT OF HN72's REAL AND COVER NAMES SUBMITTED BY THE DESIGNATED LAWYERS

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### Introduction

1. HN72 applies for a restriction order over the real and cover identity of HN72 to last indefinitely in the usual terms. The application is made on the basis of s.17(3), s.19(3)(a) and (b) read together with articles 2,3 and 8 and we refer to the Legal Principles and Approach Ruling.
2. This application should be read together with the closed risk assessment, and closed schedule submitted on 28 February 2018, which should not be disseminated beyond the Chairman.
3. HN72 relies upon medical evidence in the form of a report from Professor Knight, a cardiologist.

### Medical Evidence– in support of interference with Article 2, 3 and 8

4. HN72 suffered a serious medical incident in September 2009 and required emergency surgery which revealed two conditions: see I/S and evidence.
5. HN72 relies upon the expert assessment of Professor Knight who sets out in his report the significant impact on the health of HN72 including a risk of death should he be subject to stress. Professor Knight confirms that the revelation of his real and / or cover identities gives rise to such significant risks.
6. Articles 2 and/or 3 and/or 8 are engaged on the basis of the above. The Inquiry ought, therefore, to grant the Restriction Order over real and cover names as sought as the only justifiable answer to the weighing the public interest balance and in treating HN72 fairly in accordance with sections 17(3), 19(3)(a) and 19(3)(b) of the Inquiries Act 2005.

## **Further basis for Restriction Order application**

7. Whilst the medical basis is sufficient to justify the Application, it is put on a wider basis due to the interference with HN72's Article 8 rights both from the effect on his physical health (to the extent, if any, that this falls short of engaging Articles 2 and 3) but also based on wider evidence of impact on his private and family life.
8. Furthermore, the fact that the release of HN72's cover names and real name would be contrary to HN72's reasonable expectations of confidentiality and privacy and HN72's subjective concerns about the possible consequences of this are both relevant to an assessment of the reasonableness and fairness of release, its capacity to serve a recognisable public interest and its proportionality for the purposes of art.8(2).
9. There is no known allegation of sexual relationships or relevant misconduct whilst HN72 was deployed (save for one incident of drink driving, which was known to management at the time). In circumstances where on the one hand, the release of HN72's cover name leads to a significant risk of the identification of HN72's real identity which in turn would lead to the disruption of HN72's private and family life and carries with it a risk and fear of some physical harm, and on the other there is no indication of HN72 committing misconduct the Inquiry should err on the side of protecting HN72 and grant a restriction order in relation to his cover name, as well as his real name. The short nature of HN72's deployment ought to further militate against unjustified publication.

## **Conclusion**

10. In all the circumstances, it is submitted that the Chairman can properly make a Restriction Order over both real and cover names on the basis of the medical evidence in support of interference with Articles 2 and 3, and when considering the interference with Article 8.

**THE DESIGNATED LAWYERS (UCPI)**