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## COUNSEL TO THE INQUIRY'S EXPLANATORY NOTE TO ACCOMPANY THE THIRD 'MINDED TO' NOTE IN RESPECT OF APPLICATIONS FOR RESTRICTION ORDERS OVER THE REAL AND COVER NAMES OF OFFICERS OF THE NATIONAL PUBLIC ORDER INTELLIGENCE UNIT AND ITS PREDECESSOR/SUCCESSOR UNITS

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### Introduction

1. On 15 November 2018, the Chairman published a further 'Minded to' note (['Minded to' Note 3](#)) regarding applications for restriction orders over the real and/or cover names of a number of officers who were seconded to the National Public Order Intelligence Unit and/or those units which preceded and succeeded it.
2. The purpose of this explanatory note is to summarise:
  - a. The provisional decisions made by the Chairman to date, as set out in his 'Minded to' note dated 15 November 2018; and
  - b. The Inquiry's approach to receiving and determining applications for anonymity made on behalf of police officers (in particular cover officers) who were seconded to the National Public Order Intelligence Unit.

### The 'Minded to' position and overview

3. The position set out in the Chairman's Minded To Note 3, dated 15 November 2018, is as follows:

Nominal	Position
EN26	I refuse to make a restriction order in respect of the real name.
EN28	I refuse to make a restriction order in respect of the real name.
EN29	The real name cannot be published.
EN30	The real name cannot be published.
EN31	I refuse to make a restriction order in respect of the real name.
EN32	The real name cannot be published.
EN49	The real name cannot be published.
EN50	I refuse to make a restriction order in respect of the real name.
EN51	The real name cannot be published.

## UNDERCOVER POLICING INQUIRY

Nominal	Position
EN52	I refuse to make a restriction order in respect of the real name.
EN53	The real name cannot be published.
EN54	I refuse to make a restriction order in respect of the real name.
EN291	The real name cannot be published.
EN407	I refuse to make a restriction order in respect of the real name.
EN506	The real name cannot be published.
EN508	The real name cannot be published. I refuse to make a restriction order in respect of the cover name.

4. A summary background to the National Public Order Intelligence Unit is set out in paragraphs 12 to 14 inclusive of [Counsel to the Inquiry's explanatory note](#) which accompanied the first 'Minded To' note, in respect of National Public Order Intelligence Unit anonymity applications, dated 2 May 2018.
5. The primary focus of this part of the anonymity process has been on cover officers seconded to the National Public Order Intelligence Unit. A cover officer is an officer allocated to an undercover officer, who is responsible for matters such as security and welfare. For security reasons, a cover officer may be provided with a cover identity to preserve the sterile corridor between the undercover officer and the relevant operational unit.
6. In terms of progress, the Chairman has previously considered applications for anonymity made on behalf of those undercover officers who were deployed for significant periods of time by the National Public Order Intelligence Unit and has produced a [ruling dated 30 October 2018](#). The Chairman has now considered applications from a large proportion of those officers who acted as cover officers for the National Public Order Intelligence Unit: see 'Minded to' Note 3. The Inquiry has also identified those senior managers seconded to the National Public Order Intelligence Unit and set a timetable for the making of any anonymity applications by those officers by the end of this year.
7. Pursuant to the Chairman's 'Minded to' Note 3, closed hearings in relation to the applications made on behalf of EN26, EN31, EN50, EN52, EN54 and EN407 are scheduled to take place later this year. A closed hearing in relation to the application made on behalf of EN28 is likely to take place later than that.
8. In due course, in respect of cover officers where the Chairman is minded to restrict the real name, the Inquiry will publish OPEN versions of the applications and supporting evidence.



### **The Inquiry's approach to receiving and determining these applications for anonymity**

9. An explanation of the Inquiry's approach to receiving and determining anonymity applications made on behalf of officers seconded to the National Public Order Intelligence Unit is set out in paragraphs 15 to 22 inclusive of [Counsel to the Inquiry's explanatory note](#) which accompanied the first 'Minded to' note, in respect of National Public Order Intelligence Unit anonymity applications, dated 2 May 2018.
10. As set out above, 'Minded to' Note 3 is primarily concerned with cover officers seconded to the National Public Order Intelligence Unit. Anonymity applications from National Public Order Intelligence Unit cover officers are being treated by the Inquiry as 'real name only' applications. The rationale for this approach is that whilst cover officers routinely made use of cover identities for security purposes, there is a reasonable presumption that they did not interact with the subject(s) of the deployments or the public more generally (whether using their cover identities or otherwise). Consequently, it would be a disproportionate exercise to explore in each cover officer's case, at this stage, whether their cover identities should be disclosed to the public. If in due course the evidence indicates, in any particular case, that one or more members of the public might benefit from disclosure of a cover officer's cover name, the position can be reassessed on a case by case basis.
11. As set out above, closed hearings in relation to the applications made on behalf of EN26, EN31, EN50, EN52, EN54 and EN407 are scheduled to take place later this year. A closed hearing in relation to the application made on behalf of EN28 is likely to take place later than that. Following those hearings, and prior to the requirement for the media and any core participant who wishes to take issue with these proposed orders being required to submit written representations, the Inquiry will publish OPEN versions of the relevant application material. For the avoidance of doubt, in respect of 'real name only' applications from cover officers, where the Chairman is minded to restrict the real name, the Inquiry will publish OPEN versions of both the applications and the supporting evidence. This approach is consistent with the Chairman's [statement on anonymity applications, dated 2 February 2018](#), which was issued following the Inquiry's consultation in respect of the process of applying for and determining anonymity applications.

STEVEN GRAY

15 November 2018