

UNDERCOVER POLICING INQUIRY

Explanatory Note – Annex to Chairman’s Second Statement on Data Protection and Privacy Disclosure to Non-Police, Non-State Core Participants and Civilian Witnesses

Introduction

1. The purpose of this Explanatory Note is to provide further details about the documents annexed to the Chairman’s Second Statement on Data Protection and Privacy. The underlying documents illustrate the steps taken by the Inquiry and the Recognised Legal Representatives for the Non-Police, Non-State Core Participants (“NPNSCP RLRs”) between May and August 2019 (i.e. following the Second Privacy Hearing on 25 March 2019 and the Chairman’s (First) Statement on Privacy dated 11 April 2019) to discuss the practicalities of providing disclosure to NPNSCPs and civilian witnesses.
2. Although the Inquiry received and considered submissions on behalf of the wider NPNSCP group, as well as from individual RLRs on behalf of their core participant clients, we have annexed only those submissions and documents considered necessary to help readers understand the context of the Chairman’s Statement.

Annexed documents

3. **Document 1: Counsel to the Inquiry’s Note on Privacy and Data Protection Based Restriction Orders – Practical Example dated 2 May 2019**

This Note formed the basis of initial discussions between the Inquiry and a number of NPNSCP RLRs on the practicalities of disclosing documents to NPNSCPs and civilian witnesses for the purposes of obtaining witness evidence. It was envisaged that a trial would be conducted, based on documents created by undercover officers during their deployment, in which Mrs Reel and the ‘Justice for Ricky Reel’ campaign were named, in advance of disclosing them to her. Paragraph 5 of the 2 May 2019 Note, states:

The Trial Documents comprise 18 separate documents. Of these, 16 documents are intelligence reports believed to have emanated from a number

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of undercover police officers and the remainder comprise a targeting strategy document and a recommendation for commendation.

An amendment was later made to this statement on 31 May 2019 to clarify that the Trial Documents would comprise 19 separate documents. Of these, 16 documents were intelligence reports believed to have emanated from a number of undercover police officers and the remainder comprised a briefing note, a targeting strategy document and a recommendation for commendation.

The Trial Documents involved nine non-police, non-state core participants, three non-police, non-state core participant groups and two Recognised Legal Representatives. In addition to the exchange of correspondence, members of the Inquiry Legal Team met with NPNSCP RLRs (including a small number of core participants) on 3 and 12 June 2019 to further discuss the proposals for disclosure.

4. Document 2: Annex to Counsel to the Inquiry's Note – 19 Trial Documents

Self-explanatory.

5. Document 3: Template Restriction Order for the Disclosure of Trial Documents / Evidence dated 31 May 2019

This is a copy of the Template Restriction Order sent to NPNSCP RLRs on 31 May 2019, ahead of a meeting on 3 June 2019 to discuss the Inquiry's proposals for disclosure. As indicated in the Chairman's Second Statement, the data protection rights of those about whom information appears in a witness pack, other than the person from whom evidence is sought, will be protected by the making of a restriction order under section 19 of the Inquiries Act 2005 prohibiting the disclosure of any part of any such document to any other person except his/her Recognised Legal Representative.

6. Document 4: Flowchart setting out Inquiry's evidence gathering process dated 11 July 2019

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This flowchart summarises the Inquiry's evidence gathering process and is based on the Inquiry's [Note](#)¹ dated 26 February 2019. To the extent that the process described in this flowchart is inconsistent with the process set out in the Chairman's Second Statement on Data Protection and Privacy, the more recent document should be followed.

7. Document 5: Email from Lydia Dagostino (on behalf of the NPNSCPs) dated 2 July 2019

Submissions sent on behalf of NPNSCPs affected by the disclosure trial, in response to the Inquiry's proposals on its evidence gathering process and the disclosure of the Trial Documents, following the exchange of correspondence and discussions with the Inquiry between May and July 2019.

8. Document 6: Email from Lydia Dagostino (on behalf of the NPNSCPs) dated 9 July 2019

Further submissions sent on behalf of the NPNSCPs affected by the disclosure trial. The RLR for Mr Mansfield QC confirmed by email on 10 July 2019 that he endorsed the approach put forward by the group of RLRs representing NPNSCPs, as set out in the email from Lydia Dagostino dated 9 July 2019. In addition, the Inquiry received and considered submissions from RLRs representing other core participants who were not affected by the disclosure trial.

9. Document 7: Flowchart submitted on behalf of the NPNSCPs setting out their proposals for disclosure of evidence to NPNSCPs and civilian witnesses dated 10 July 2019 (amended on 11 July 2019)

This flowchart was prepared and submitted by the NPNSCP RLRs. It followed the exchange of correspondence and discussions with the Inquiry between May and July 2019 regarding the disclosure of evidence to NPNSCPs and civilian witnesses and proposed an alternative process to that set out in the Inquiry's flowchart summarising its evidence gathering and disclosure process (dated 11 June 2019 at Document 4).

¹ Note regarding the Inquiry's evidence gathering process - https://www.ucpi.org.uk/wp-content/uploads/2019/02/20190226_Privacy_hearing_supplemental_note_FINAL.pdf

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10. Document 8: Note accompanying NPNSCP's flowchart (11 July 2019)

Self-explanatory.

Following the discussions between the Inquiry and NPNSCP RLRs and having considered the above submissions, the Chairman decided that the trial will not be pursued. A draft version of the Chairman's Second Statement on Data Protection and Privacy was sent to the RLRs on 29 July 2019. A further meeting took place on 31 July 2019 to discuss the Inquiry's proposals for disclosure, as set out in the draft Statement.

11. Document 9: Email from Lydia Dagostino (on behalf of the NPNSCPs) dated 19 August 2019

Cover letter/email to Note Clarifying the NPNSCP's disclosure proposals.

12. Document 10: Note Clarifying the NPNSCP's disclosure proposals

Note Clarifying the NPNSCP's disclosure proposals, in response to the Chairman's draft Second Statement on Data Protection and Privacy.

21 August 2019

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