

UNDERCOVER POLICING INQUIRY

MANAGEMENT STATEMENT

September 2019

1. INTRODUCTION

1.1. This Management Statement has been drawn up by the Home Office in consultation with the Undercover Policing Inquiry (“the Inquiry”). The purpose of the document is to ensure that clear roles and responsibilities are in place which will facilitate the smooth running of the Inquiry’s work, in accordance with the provisions of the Inquiries Act 2005 and the Inquiry Rules 2006. This document relates specifically to sponsorship of the Inquiry by the Home Office. It does not seek to detail how the operational activity of the Inquiry will be conducted.

1.2. The Inquiry has been set up under section 1 of the Inquiries Act 2005 by the Home Secretary to discharge the Terms of Reference set out in the Annex. It is in the public interest for the Inquiry’s work to be conducted at all times in a way that ensures:

1.2.1. the independence of the Chairman in determining how to undertake the Inquiry in order to meet the Terms of Reference;

1.2.2. the thorough examination and consideration of all the evidence and issues that the Inquiry determines to be pertinent to its Terms of Reference in order to ensure that its reports are complete and robust;

1.2.3. the fair and equitable treatment of witnesses and all other parties whose interests are affected by the work of the Inquiry; and

1.2.4. that the Inquiry’s work is conducted in line with section 17(3) of the Inquiries Act 2005 to have regard to the need to avoid unnecessary cost and to act with fairness, and as economically and expeditiously as possible.

1.3. None of the provisions in this document shall be read or applied in such a way as to derogate from or compromise these principles.

1.4. In addition, the Home Office will take all reasonable steps to provide the Inquiry with an appropriate budget in line with section 39 of the Inquiries Act having due regard to securing value for public money so as to enable the Inquiry to fulfil its Terms of Reference in an efficient and expeditious manner.

1.5. The Management Statement sets out the broad framework within which the Inquiry will operate and includes:

1.5.1. The Inquiry’s Terms of Reference;

1.5.2. The conditions under which any public funds are paid to the Inquiry;

1.5.3. How the Inquiry must account for its expenditure; and

1.5.4. Staff management and security issues.

- 1.6. This document has been agreed between the Home Office Sponsorship Team and the Undercover Policing Inquiry. Amendments may be agreed between the Home Office and the Inquiry at any time. The Management Statement conveys no legal powers or responsibilities.
- 1.7. The Home Office has processes in place to ensure there is a clear separation between the management of sponsorship matters and matters related to the Home Office's role as a core participant. A Memorandum of Understanding has been signed by the Director of Policing (as the lead core participant) and the Inquiry Sponsor, which sets out how the separation will be ensured.
- 1.8. The Inquiry Sponsor will not engage with the Inquiry on any matters relating to the Home Office role as a core participant.

2. STATUTORY BASIS

- 2.1. The Undercover Policing Inquiry was set up by the Home Secretary under the Inquiries Act 2005. The Home Secretary informed Parliament of the intention to set it up by Written Ministerial Statement on 12 March 2015. The Inquiry's Terms of Reference, published on 16 July 2015 can be found in the Annex.

3. RESPONSIBILITIES AND ACCOUNTABILITY

- 3.1. **The Home Secretary** is accountable to Parliament for the funding and overall support given to the Inquiry. They may designate another Minister to assist them in the discharge of their duties. The Home Secretary's responsibilities include:
- 3.1.1. appointing the Chairman;
 - 3.1.2. appointing any Inquiry Panel Members in consultation with the Inquiry Chair;
 - 3.1.3. setting the Terms of Reference in consultation with the Inquiry Chair;
 - 3.1.4. providing appropriate financial and other resources to the Inquiry;
 - 3.1.5. reporting to Parliament on Home Office sponsorship responsibilities in relation to the Inquiry;
 - 3.1.6. receiving the Inquiry's Report and laying it before Parliament; and
 - 3.1.7. responding to the Inquiry's findings.
- 3.2. **The Inquiry Chair** is responsible to the Home Secretary for leading the Inquiry in fulfilling its Terms of Reference and reporting the Inquiry's findings. Subject to the principles set out at paragraph 1.2, the Chair is responsible and accountable for the proper management of public resources and expenditure on Inquiry business. This accountability will normally be through the Inquiry Secretary to the

Permanent Secretary as Principal Accounting Officer for the Home Office. The Chair's duties include:

- 3.2.1. conducting the work necessary to discharge the Inquiry's Terms of Reference;
- 3.2.2. providing leadership to the Inquiry;
- 3.2.3. ensuring high standards of probity and impartiality;
- 3.2.4. collating and assessing evidence relevant and necessary to the terms of reference; and
- 3.2.5. presenting the Inquiry's findings and recommendations to the Home Secretary.

3.3. The Permanent Secretary of the Home Office, as the Department's Principal Accounting Officer, is responsible for the standard of financial management in the Department as a whole. In this context, the Principal Accounting Officer is accountable to Parliament for spending by the Inquiry. In particular, the Principal Accounting Officer of the Home Office expects to be assured that:

- 3.3.1. the financial and other management controls applied by the Home Office to the Inquiry are appropriate and sufficient to safeguard public funds and that the Inquiry's compliance with those controls is effectively monitored; and
- 3.3.2. the internal controls applied by the Inquiry conform to the requirements of regularity, propriety, value for money and good financial management.

3.4. The Sponsor of the Inquiry is a Director in the Home Office. The Sponsor, in consultation with others as necessary, is the primary source of advice to the Home Secretary on the discharge of their responsibilities in respect of the Inquiry, and the primary point of contact for the Inquiry in dealing with the Home Office on matters concerning funding, the Inquiry's progress in fulfilling the Terms of Reference, the management of public resources and administration issues. The Sponsor shall advise the Home Secretary of:

- 3.4.1. the agreed budget/forecast for the Inquiry and any material changes;
- 3.4.2. progress being made by the Inquiry; and
- 3.4.3. sponsorship issues that the Inquiry would wish brought to the attention of the Home Secretary.

3.5. In support of the Principal Accounting Officer the Sponsor will:

- 3.5.1. manage the delegation of budget to the Inquiry in accordance with the conditions of delegation;

- 3.5.2. monitor the Inquiry's expenditure on a monthly basis and progress in fulfilling the Terms of Reference on a continuing basis through regular meetings with the Inquiry Secretary;
 - 3.5.3. address in a timely manner any significant problems raised by the Inquiry concerning its finances or other resources; and
 - 3.5.4. inform the Inquiry of relevant Government policy and procedures relating to financial management in a timely manner, advise as appropriate on the interpretation of that policy and issue specific guidance to the Inquiry as necessary.
- 3.6. The Home Office is responsible for replying to Parliamentary Questions about the Inquiry and to any Freedom of Information Act 2000 requests it receives in relation to information which it holds on the Inquiry. The Inquiry itself is not a public authority for the purposes of the Freedom of Information Act 2000 but, in the spirit of openness and transparency, will publish as much information in relation to its work as possible.
- 3.7. **The Inquiry Secretary** is the Senior Accountable Officer for the Inquiry and shall ensure that the Inquiry's affairs are conducted with due probity in line with the requirements of Managing Public Money¹ and any subsidiary rules and/or regulations governing expenditure within HM Government. Under the direction of the Inquiry Chair, the Secretary has a particular leadership responsibility for:
- 3.7.1. advising the Inquiry on the efficient and effective use of staff and other resources;
 - 3.7.2. ensuring that adequate internal management and financial controls are in place, including effective measures against fraud and theft, and ensuring that any statutory or administrative requirements for the use of public funds are complied with;
 - 3.7.3. managing the Inquiry budget in accordance with the letter of budget delegation from the Sponsor;
 - 3.7.4. ensuring that all public funds made available to the Inquiry are used for the purpose intended by Parliament, and that such monies, together with the Inquiry's assets, equipment and staff, are used economically, efficiently and effectively and with due regard to value for money principles;
 - 3.7.5. ensuring that the Inquiry operates within the limits of its remit and any delegated authority agreed with the Sponsor, and in accordance with any other conditions relating to the use of public funds, including Managing

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212123/Managing_Public_Money_AA_v2_-_chapters_annex_web.pdf

Public Money and Her Majesty's Treasury approval via the Sponsor for novel and contentious spend, and taking corrective or appropriate action as necessary in response to likely overspends or other adverse financial risks;

- 3.7.6. preparing the Inquiry's programme plan to support the regular liaison between the Inquiry and Sponsor about the expenditure of the allocated budget and progress against the timescales within which the Inquiry expects to fulfil its Terms of Reference;
 - 3.7.7. providing the Sponsor with monthly forecasts and monitoring information on finance (with follow-up meetings if required), and notifying the Sponsor promptly if overspends or underspends are likely or if there are any other significant management or financial or resource problems;
 - 3.7.8. providing the Sponsor with a quarterly update (at a meeting convened by the Sponsor or by any other means agreed) on sponsorship matters;
 - 3.7.9. implementing risk management and other relevant financial or management guidance promulgated by HM Treasury and/or the Cabinet Office;
 - 3.7.10. ensuring effective personnel management policies are in place and maintained. In doing so, the Inquiry must ensure that its policies are in line with the standard guidance appropriate to the Home Office and wider Civil Service. As regards those staff on Home Office terms and conditions, if the Inquiry wishes to deviate from the agreed Home Office policy, the Inquiry must secure the agreement of the Sponsor;
 - 3.7.11. ensuring that suitable whistle-blowing policies and procedures are in place, recognising the Inquiry's independence from the Home Office; and
 - 3.7.12. providing public facing communications and responding to media enquiries in matters which relate to the day to day running of the Inquiry.
- 3.8. The Inquiry Sponsor and the Inquiry Secretary will fulfil their respective functions in relation to financial and risk management in accordance with the procedures set out in the agreed Ways of Working document.
- 3.9. The Chair, and all those engaged to support them shall act in accordance with their wider responsibility to:
- 3.9.1. comply at all times with the Inquiry Rules and other rules relating to the use of public funds and to conflicts of interest;
 - 3.9.2. act with impartiality and confidentiality, ensuring conflicts of interests are avoided;

- 3.9.3. ensure that information gained in the course of their public service on the Inquiry is not disclosed or misused for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
- 3.9.4. comply with Government guidance on the acceptance of gifts and hospitality, and of business appointments;
- 3.9.5. ensure that Government information given to the Inquiry is handled in accordance with Government security regulations; and
- 3.9.6. act in good faith and in the best interests of the Inquiry.

4. PLANNING, FINANCIAL MATTERS AND AUDIT

Planning

- 4.1. The Inquiry shall produce a project plan and indicative budget. The project plan shall include key targets and milestones for the establishment and running of the Inquiry's work and shall be linked to budgeting information so that resources are allocated to achieve specific objectives.

Financial Matters

- 4.2. The Inquiry shall operate management information and accounting systems, which enable it to review in a timely and effective manner its performance against the budgets and targets set out in its plan and identify the need for corrective or appropriate action as necessary in response to likely underspends, overspends or other adverse financial risks.
- 4.3. The Inquiry shall present its budget to the Home Office as part of its annual business planning round in December. This will include a detailed assessment of the budget required to allow the Inquiry to deliver its remit successfully for the following year. Following approval of the budget, the Inquiry will be issued with the following documents:
 - 4.3.1. a sub-delegation letter; and
 - 4.3.2. a statement of any planned change in policies affecting the Inquiry, for example any changes to central cost controls from HM Treasury or the Cabinet Office.
- 4.4. As noted above, the Inquiry Secretary is responsible for notifying the Sponsor if there are any external conditions that could affect the smooth running of the Inquiry's work - particularly if this could result in a need to re-examine the budget allocated to the Inquiry.

Procurement

- 4.5. The Inquiry is responsible for its own procurement through the provision of a delegated authority, with an agreed suitable financial limit. The Inquiry must be able to demonstrate that value for money has been secured in relation to each procurement exercise. As required by legislation or policy, consideration will be given to the requirement for competitive tenders to be undertaken as part of the procurement procedures. Any procurement exercise will be conducted in accordance with the Public Contracts Regulations 2015 and Home Office procurement policies. Any contracts that the Inquiry wishes to enter as a result of a procurement exercise that fall outside of the scope and value of the delegated authority will revert to the Home Office to authorise as Contracting Authority and will be subject to all relevant Home Office governance and approval processes as may be appropriate.
- 4.6. Where Cabinet Office approval is required for specific areas of the Inquiry's spend, as set out in the guidance from the Cabinet Office on Gov.uk² the Inquiry will work with the Home Office, as the sponsor department. The Home Office will, in turn, submit any expenditure proposals to the Cabinet Office on the Inquiry's behalf, copying in HM Treasury, for Cabinet Office approval. The Home Office will inform the Inquiry of the outcome of submitted proposals.
- 4.7. All assets procured by the Inquiry contractually rest with the Home Office.
- 4.8. The Inquiry will be responsible for managing all contracts to ensure performance delivery and compliance with contract terms and conditions.

Internal Audit

- 4.9. All the Inquiry's procedures and processes should comply with Her Majesty's Government audit requirements. Auditors should be given access to the Inquiry's management records as necessary, but not to records concerning the evidence obtained by the Inquiry, the analysis or interpretation of that evidence, the decisions of the Inquiry, the Inquiry's dealings with witnesses and other parties to the Inquiry's work or any other records where this would conflict with the overriding principles outlined at paragraph 1.2.

Additional Department access to the Inquiry

- 4.10. In addition to the right of access referred to in paragraph 4.5, the Home Office shall be given access to all the Inquiry's relevant financial management and HR records only to the extent that this is necessary to support the Inquiry Secretary in providing the appropriate level of financial assurance to the Home Office, and in supporting the duty of care owed to the Inquiry's staff.
- 4.11. The Home Office shall not have access to records that relate to the information obtained by the Inquiry, the analysis or interpretation of that information, the decisions of the Inquiry, or the Inquiry's dealings with witnesses

² <https://www.gov.uk/government/publications/cabinet-office-controls>

and other parties to the Inquiry's work, or any other records where this would conflict with the principles outlined at paragraph 1.2.

Register of Interests

4.12. The Inquiry shall maintain a written register of interests of the Chair and provide a copy of that document, and any changes to it, to the Sponsor.

4.13. All those working on the Inquiry and others engaged on the Inquiry's business (including contractors or consultants) should declare any interests they have in respect of the nature of the Inquiry's work. Similarly, records should be kept of any financial interest by Inquiry members or staff in any company/consultant engaged in the Inquiry's work. A record should also be kept if any Inquiry member or member of staff knows any of the information providers, representatives, interested parties or core participants.

5. INQUIRY TEAM MANAGEMENT

5.1. The Inquiry Secretary shall ensure that:

5.1.1. Team members are treated fairly on the basis of merit;

5.1.2. there is no discrimination or harassment on grounds of gender, marital status, sexual orientation, race, colour, ethnic or national origin, religion, disability, community background or age;

5.1.3. Home Office performance management procedures are in place to ensure that the performance of its civil service staff at all levels is satisfactorily appraised in order to deliver the Inquiry's Terms of Reference;

5.1.4. Its team members are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the Inquiry's Terms of Reference;

5.1.5. proper consultation with team members takes place on key issues affecting them;

5.1.6. Home Office grievance and disciplinary procedures are in place; and

5.1.7. team members are aware of whistleblowing procedures.

5.2. The Inquiry Secretary will also work closely with the Home Office Human Resources team on any personnel matters affecting civil servants employed by, or on loan to, the Inquiry.

5.3. Workforce planning should be undertaken and reviewed regularly to ensure the resources are most efficiently deployed to meet the needs of the Inquiry and focused on delivering the Terms of Reference. Where resourcing creates

additional liabilities for the Home Office, the Inquiry should consult the Home Office Senior Sponsor in advance of any decisions.

6. FRAUD AND THEFT

6.1. The Inquiry shall adopt and implement policies and practices to safeguard itself against fraud and theft in line with Government guidance.

6.2. All cases of attempted, suspected or proven fraud shall be reported to the Home Office immediately, irrespective of the amount involved. The Home Office may report such matters onward as required by internal procedures.

7. PROTECTIVE SECURITY

7.1. The Inquiry must ensure that personnel and physical security processes are in place, and those who work there are aware of their responsibilities.

8. DATA PROTECTION

8.1. The Inquiry will ensure that data security policies are in place and that the Chair, and all those engaged to support them will receive necessary training. The Inquiry will ensure that it adheres to the relevant provisions of the data protection legislation as defined in section 3(9) of the Data Protection Act 2018. It should also ensure that it is registered with the Information Commissioner. The Inquiry Secretary is the Senior Information Risk Officer (SIRO) for the Inquiry.

Kenny Bowie
Strategy Director

Signed on behalf of the Home Office

Cecilia French
Inquiry Secretary

Signed on behalf of the Inquiry

September 2019

Annex A: Terms of Reference

Purpose

1. *To inquire into and report on undercover police operations conducted by English and Welsh police forces in England and Wales since 1968 and, in particular, to:*
 - i. *investigate the role and the contribution made by undercover policing towards the prevention and detection of crime;*
 - ii. *examine the motivation for, and the scope of, undercover police operations in practice and their effect upon individuals in particular and the public in general;*
 - iii. *ascertain the state of awareness of undercover police operations of Her Majesty's Government;*
 - iv. *identify and assess the adequacy of the:*
 - a. *justification, authorisation, operational governance and oversight of undercover policing;*
 - b. *selection, training, management and care of undercover police officers;*
 - v. *identify and assess the adequacy of the statutory, policy and judicial regulation of undercover policing.*

Miscarriages of justice

2. *The inquiry's investigations will include a review of the extent of the duty to make, during a criminal prosecution, disclosure of an undercover police operation and the scope for miscarriage of justice in the absence of proper disclosure.*
3. *The inquiry will refer to a panel, consisting of senior members of the Crown Prosecution Service and the police, the facts of any case in respect of which it concludes that a miscarriage of justice may have occurred as a result of an undercover police operation or its non disclosure. The panel will consider whether further action is required, including but not limited to, referral of the case to the Criminal Cases Review Commission.*

Scope

4. *The inquiry's investigation will include, but not be limited to, whether and to what purpose, extent and effect undercover police operations have targeted political and social justice campaigners.*
5. *The inquiry's investigation will include, but not be limited to, the undercover operations of the Special Demonstration Squad and the National Public Order Intelligence Unit.*
6. *For the purpose of the inquiry, the term "undercover police operations" means the use by a police force of a police officer as a covert human intelligence source (CHIS) within the meaning of section 26(8) of the Regulation of Investigatory Powers Act 2000, whether before or after the commencement of that Act. The terms "undercover police officer", "undercover policing", "undercover police activity" should be understood accordingly. It includes operations conducted through online media.*

7. *The inquiry will not examine undercover or covert operations conducted by any body other than an English or Welsh police force.*

Method

8. *The inquiry will examine and review all documents as the inquiry chairman shall judge appropriate.*
9. *The inquiry will receive such oral and written evidence as the inquiry chairman shall judge appropriate.*

Report

10. *The inquiry will report to the Home Secretary as soon as practicable³. The report will make recommendations as to the future deployment of undercover police officers.*

³ It is anticipated that the inquiry report will be delivered up to three years after the publication of these terms of reference.