

IN THE MATTER OF THE UNDERCOVER POLICING INQUIRY

Second Supplementary Submissions on behalf of the Slater and Gordon Clients on matters relating to the efficient and effective running of the Tranche 1 Phase 2 evidence hearings

1. The submissions on behalf of the Category H Core Participants [20 January] at §65-69 are predicated on the basis that what is to be asserted by the Recognised Legal Representative acting on behalf of those Core Participants necessarily is true and accurate in all regards. It may not be.
2. If there is a significant dispute of fact that is relevant to the terms of the Inquiry ordinarily the Chairman will have to resolve it. Usually that is facilitated by Counsel to the Inquiry asking questions relevant to that issue and the Chairman resolving it.
3. If this Inquiry is to engage in an adversarial examination of the facts, the basic principles of an adversarial system should be engaged. It is trite law that for an adversarial system to work there must be an adversary.
4. A principled approach might be to determine:
 - 4.1. Is there a dispute of fact?
 - 4.2. If so, is it necessary to resolve that dispute of fact?
 - 4.3. If so, can the dispute of fact be resolved by the questioning of the relevant witnesses by counsel to the inquiry?
 - 4.4. If it cannot, is it to be resolved by an adversarial process in line with the rulings already made by the Chairman applied equally to both parties to the dispute?
5. Fairness to all Core Participants is fundamental to the integrity of the Inquiry.

Richard Whittam QC
Matrix Chambers

21 January 2021