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Our Ref: HW/8267/1

Your Ref: 113290/MJ

Date: 25 September 2020

For the attention of Mr Paul Bishop

UCPI

By email only to: BishopP@ucpinquiry.org.uk and contact@ucpinquiry.org.uk

Dear Sir

Re. Rosa and Application for reasonable adjustment to access the evidential hearings

We write further to the meeting which took place on 17 September 2020 where access to the evidential hearings in light of the impacts of Covid-19 was discussed.

At that meeting, Rosa spoke powerfully about her personal situation and the fact that she would be prevented from attending hearings as a result of her children's disabilities. Dr Bishop encouraged her to make a written application to the Inquiry to request remote access to the evidential hearings in real time, or with a short delay. In his letter of 8 September 2020, James Wilson also stated that the Inquiry recognises that "under some circumstances special arrangements may be justified to ensure a CP has the access they need to evidence from the hearings. These will be assessed on a case-by-case basis following submissions to the Chair from the RLR."

It is our understanding that it is the Chair's position that for this application to be successful it will have to meet 2 tests. First, Rosa will have to demonstrate that she has a direct interest in or is directly affected by the evidence. Second, she will have to show why she is unable to attend the hearings.

As it is common knowledge that Rosa is not a Tranche 1 witness or named in the open material for that tranche, we trust that she would not have been invited to make this application if (as

the Inquiry has previously indicated) these were the conditions she had to meet in order to pass the first test.

Background

As Dr Bishop is new to the Inquiry, we thought it would be helpful to provide some background information about Rosa.

Rosa was a committed animal rights and social and environmental justice, activist. She was deceived into an intimate relationship with Jim Boyling (who she knew as Jim Sutton) in November 1999. Their relationship was very intense and they moved in together within a few months. Shortly after, Boyling's behaviour became erratic, he feigned mental health problems and in September 2000 he left her to go travelling in South Africa.

While he was away she was unable to contact him and became very concerned for his well being. She spent months trying to track him down unsuccessfully, eventually travelling to South Africa to search for him. During the time she spent searching for him Boyling sent Rosa emails in which he professed his love for her and described himself as in a mentally precarious state.

In November 2001, after her search had uncovered the location of the SDS headquarters, Boyling found Rosa and told her that he had been paid as an undercover officer, but that he had always hated being in the police, had become politically aware on arrival in the group and continued acting as an activist to protect fellow activists. He claimed the operation concerned a non-political matter, based on an error in police intelligence and that Britain categorically does not spy on peaceful green activists. Claiming he had been the only undercover officer in the movement, he insisted the movement was safe now. He claimed that he however had been broken by having to leave this world and especially Rosa as his life partner and best friend, and now was alone fearing retribution from his bosses.

Rosa was in a state of extreme vulnerability, as so many of the events surrounding Boyling's disappearance were extremely traumatic and he alone appeared to hold the answers to them. Boyling led Rosa to believe that they were in some sort of danger from the police and had to stick together. The police were constantly watching them, he told her and he needed help to escape them. Boyling insisted they would be safe in the flat pending departure. She was pregnant within two weeks. Two children were born of the relationship; both were later diagnosed with a rare, life limiting degenerative disorder which sadly has a very poor prognosis. Rosa felt compelled, as a consequence of Boyling's demands and highly volatile behaviour to enter into a marriage with him, in 2005. During this time Boyling was still submitting information to his employers about Rosa and was sharing details of his confidential work to Rosa.

Boyling became abusive. Rosa was eventually able to end the relationship permanently after escaping to a women's refuge with her children in early 2007. The relationship and the

discovery of the deceit have changed Rosa's life irrevocably and resulted in serious psychiatric injury.

Rosa issued civil proceedings against the Metropolitan Police in July 2012. As with all the other women who were deceived into relationships with officers, her primary motivation for engaging in civil proceedings was to gain an understanding of what happened to her. This understanding necessarily includes an understanding of how and why the practice of deceiving women into relationships was permitted and became a regular feature of UCO culture. However, her civil claim settled in 2015 and the police declined to provide disclosure. Her complaint against Boyling was upheld and he was dismissed from the Metropolitan Police Service but, again, Rosa received little in the way of disclosure [redacted].

Rosa has fully engaged with the UCPI since its inception and it is now the only means by which her many questions can be answered. It is difficult to stress how important it is to her to be able to properly engage with the Inquiry to ensure that she has the best possible chance of understanding what happened to her and achieving some sort of closure which she feels will assist her wellbeing.

Following the Inquiry's decision to restrict advance access to hearing bundles to T1 witnesses or those named in the open material, attending the live hearings became essential to Rosa. It is the only opportunity she would have to engage with the evidence and propose questions for UCO witnesses in Tranche 1 based on her own experience. If the Chair denies her access to hearings as well as to advance disclosure she will be prohibited from having any real engagement with Tranche 1 at all. Given the nature of her involvement in the Inquiry this is not only deeply unfair, but will also potentially limit the inquiry's ability to meet its terms of reference as it will be denied the insights that Rosa can bring to Tranche 1 through proposing questions to witnesses via Ruth Brander.

Why she cannot attend the hearings

As Rosa set out at the meeting on 17 September, and above, her two children, born in direct consequence of the undercover operation, suffer from serious, life limiting disabilities and require 24 hour care. [Rosa cannot attend because she and they are shielding] If you require further evidence on this, please let us know.

Interest in T1 hearings

Given that this is a public Inquiry in which Rosa is a CP, it is our view that she should not have to demonstrate further reasons why she has a sufficient interest in the evidence. However, given the highly restrictive position adopted by the Inquiry so far, we outline brief details of her direct interest/how she will be directly affected by evidence in Tranche 1.

A letter sent to the Inquiry by Lydia Dagostino on behalf of NSCPs dated 10 January 2020, set out in detail (with reference to advance access to hearing bundles why Category H CPs had a direct interest in Tranche 1 evidence. In that letter we explained that

“The Inquiry is aware of at least six undercover officers in Tranche 1 who had intimate relationships with women they were spying on (HN302, HN300, HN297, HN354, HN67 and HN12). These relationships covered almost the entire period of Tranche 1, taking place in 1970, 1974, 1975, 1976, 1981 and 1982. State witnesses in Tranche 1 will be able to provide important evidence on this issue, including how the practice of UCOs entering into intimate relationships developed, details of any policies permitting or encouraging UCOs to enter into such relationships, details of any relevant training or guidance given at that time and evidence of SDS officers’ general attitudes towards women.

It is our view that Category H CPs in later tranches have a “direct interest” in this evidence. It is essential for them to understand how the practice of pursuing intimate relationships (and any related policies, training and guidance) developed from when the SDS was first established; it will assist them in understanding their own relationships with undercover officers and the broader context within which those relationships existed. In order for them to effectively participate in the Inquiry, including exercising their right to apply for permission to ask questions for witnesses giving oral evidence in Tranche 1, they will need advance disclosure of Tranche 1 material.... Given the importance of this issue to the Inquiry, it must be in the Inquiry’s interest to ensure that Category H CPs from later tranches are able to properly participate on these issues in Tranche 1 to assist the Inquiry in meeting its terms of reference. They are very likely to have relevant questions for the Tranche 1 officers, to take one example, about the means by which the Tranche 1 UCOs formed and maintained relationships with the women they spied on. Such questions would be informed by the NPSCPs’ experience of how this was done in their own cases. The Inquiry will not be in a position to put such questions without the assistance of the women who were in relationships and if those questions are not put to the Tranche 1 officers, the Inquiry will not be able to determine to what extent such tactics were indicative of a concerted strategy or sharing of tactics (whether officially sanctioned, or informal), or something which the later officers developed in isolation.”

In Rosa’s particular case, an investigation of the foundation of a culture which led to the birth of her two children to whom she provides literally constant care and devotes her entire life is clearly of direct interest to her in her own right and on behalf of the children. The practise and/or policies of spying on the wider public and the systemic use of targeting women for sexual relationships which impacted upon and entirely changed every single aspect of Rosa’s life and continues to do so was born out events being dealt with in Tranche 1 and developed in that time period. In order to understand what has happened to her, Rosa needs therefore to be able to effectively participate in Tranche 1.

Since that time we have learned more about the nature of HN300’s relationship; it appears that he entered into a long term relationship with a woman he met during his deployment, was removed from his role, and subsequently married and had children with her. There are clear parallels with Rosa’s case. The story of HN300 evidences that not only did the practices of abuse of trust and sexual exploitation begin in the early years of the SDS, but that in his case at least that these practices were known about by supervising officers who chose to remove

him from the field. While HN300 is deceased, another UCO has already given evidence to the Inquiry about the relationship. We trust that this officer will be called as a live witness (given the significance of this evidence in respect of HN300 and the fact that many of the officers who had relationships from this tranche are already deceased) and further information will be elicited through questions at the hearing. As a CP directly affected by a deceptive relationship which also resulted in marriage and children, Rosa has insight that CTI does not and may well spot patterns and connections outlined in evidence that will otherwise be missed. She clearly has a direct interest in this and other related evidence – this is where the foundations were laid for the abuse she experienced several decades later and it is crucial for understanding how a culture developed that allowed this widespread abuse of women by UCOs and why it was not prevented .

Reasons for Requirement for Access to evidential hearings in real time

Rosa requires visual access to the evidential hearings in real time, or with a short delay, because she may have questions she wants to suggest via her RLR/counsel to be put to the witness through CTI. Rosa made the point very powerfully in meetings with the Inquiry legal team, and it is repeated here, that it was only when the women got together and started pooling their experiences that they were able to identify significant themes and methodologies in the way they were all treated. Identifying those seams of commonality is critical to the Inquiry understanding whether the history of the SDS (and subsequently the NPOIU) was a coincidental collection of individual bad apples, or whether there were, at least aspects of the wrong-doing that were systemic and part of a considered and deliberate methodology. It is unlikely that the police are going to volunteer that information and the people best placed to spot similarities indicative of a common methodology are those who were spied on, like Rosa. She may well then have questions for witnesses that neither the Chair / CTI nor the CPs own RLRs would know to ask, not having been the victim of UCO activity themselves. There is therefore a real importance in Rosa's being able to participate, and participate effectively, in all of the hearings. A transcript at the end of the day would not achieve that, because by the time it is published it is too late to suggest questions of the witness – unless they are recalled which will delay proceedings and incur cost to the public purse. The feeling that she has missed an opportunity to participate/ask important questions will add to Rosa's distress at these proceedings.

[Because of the impact of these events on her health she would find it difficult or impossible to participate effectively by following proceedings on a transcript]

Finally, in the same way as others who can attend the hearing venue, Rosa has the right to hear the nuances of tone of voice and, where relevant, observe the body language and facial reactions of witnesses and make her own assessment of their evidence with the benefit of the knowledge that she now has of the context that placed Boyling, and allowed him to stay, in her life. It is only with the benefit of this insight that she will be able to process and make her own judgment on your eventual report on the evidence in this matter. A transcript cannot help with this.

If the Inquiry is unable to ensure that Rosa can attend the hearings in a way that does not pose risks to her children, it must offer alternative access in some form. Rosa is not prescriptive about how this should be facilitated so long as reasonable adjustments are made to ensure that she is provided equivalent access to those who are not prohibited from attending the hearings at the Amba hotel due to a protected characteristic.

We look forward to hearing from you. In the event that the application is declined we would be grateful if you could set out your detailed reasoning with reference to the relevant legislation and guidance so that we may advise our client.

Yours faithfully

Birnberg Peirce

Birnberg Peirce Ltd