

RULING – GENERAL ASSURANCE SUBMISSIONS

1. This decision is made in response to letters from the category H core participants and the non-state core participants generally, received on 6 March 2024.

2. As I have always made clear, participation in and the provision of evidence to the inquiry on the part of both categories of participants is voluntary. I will not compel any non-state core participant to provide evidence to the inquiry, whether documentary or in a witness statement or orally. I welcome their assistance and am willing to take any reasonable and lawful step which does not interfere with or inhibit fulfilment of my terms of reference to enable them to provide it.

3. I make it clear at the outset that I will not commit myself to making or declining to make any finding of fact relevant to fulfilment of the terms of reference in advance of receipt of the evidence which bears on them. To do so would be unprincipled and, as far as I know, unprecedented in the case of any other independent investigation of past events, whether in formal legal proceedings or in a public inquiry.

4. I will do my best to uphold the legal, including Convention, rights of all who participate in the inquiry and to ensure that their mental health, well-being and ability to fulfil their normal lives, including, where appropriate, current employment, are protected. There will be rare occasions on which these considerations must give way to other more compelling claims. I provided one such example in my letter dated 22 February 2024.

5. The inquiry has done its best to ensure that non-state core participants can apply to have redactions made in those documents provided to them by the inquiry which it is intended to include in the T2 hearing bundle. Some have taken advantage of this opportunity. Decisions have been made or will be made soon after discussions, if required, with the recognised legal representative of each individual non-state core participant. In the case of the category H non-state core participants in T2 I am satisfied that this exercise has produced or will produce an outcome which will satisfy

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the legitimate interests of each of them and, with one likely exception, noted in paragraph 4 above, should prove acceptable to them.

6. Similar steps can be taken in relation to witness statements and documents provided by the non-state core participants. I take as an example that which is of concern to some of them: contemporaneous reports that they participated in serious and less than serious criminal activity. It is of importance to the inquiry that it receives their account of the incidents described in the reports: to permit the accuracy and, in some cases, truthfulness, of the reports to be assessed and in the light of any conclusion reached about them, the truthfulness and accuracy of the evidence given by the undercover officer who made the report; and in the light of any conclusion reached about those issues, to help assess the justification or otherwise for the deployment. In the majority of cases, if it is necessary to protect the rights and interests set out in paragraph 4 above, it will not be necessary for the evidence provided by the non-state core participant about the issue to be made public. Whether or not evidence about the issue should be withheld from public disclosure must be determined on a case-by-case basis. The non-state core participant can apply, when the statement is provided to the inquiry, for the part of it which deals with that issue to be withheld from public disclosure. For the reasons set out above, I decline to provide the assurances sought by the category H non-state core participants. I also decline to set in train discussion of a protocol for the giving of evidence about these issues or about the protections required to ensure the fairness of hearings. The manner in which oral evidence can be tested and the fairness of proceedings has already been determined. Both worked well in T1 and I am unpersuaded that they will not work as well in subsequent tranches. The means by which fairness to those who may be criticised in the report are already settled and do not require elaboration or modification.

7. The remaining issues of detail raised in the letters will be discussed in correspondence and do not require a decision from me at this stage.

8 March 2024

Sir John Mitting
Chairman, Undercover Policing Inquiry