

OPERATION HYDRANT

Coordinating the response
to non recent sexual abuse

Guidance

Contacting Retired Officers as a result of the Independent Inquiry into Child Sexual Abuse (IICSA).

Guidance Document for Police Forces & Retired Officers

Version – 2.0 (11.10.2016)

Background

1. The Independent Inquiry into Child Sexual Abuse (Inquiry) is an unprecedented opportunity to examine institutional failings to protect children from sexual abuse and to make recommendations that will improve the protection of children in the future.
2. The Inquiry is a Public Inquiry and has wide-ranging powers under the Inquiries Act 2005. The Chair of the Inquiry can find fact but they cannot find criminal guilt or civil liability. This creates the potential for forces and/or individual officers to be criticised and for fact to be found, that may expose individual officers to allegations of misconduct. Although it should be noted that an overarching principle of an Inquiry is to make recommendations rather than apportion blame.
3. Operation Hydrant acts as the conduit between the Inquiry and policing. It maintains a record and audit of all requests/responses made between the Inquiry and Policing. Staff at Operation Hydrant will also negotiate with the Inquiry to agree the parameters and deadlines for any requests.
4. The Inquiry will undertake investigations under the Public Hearings Project. The first twelve investigations were announced in November 2015. They are either institutional or thematic. They were joined by a thirteenth investigation (Lord Janner) in January 2016.
5. The first public hearings are not expected to take place before the Spring of 2017.
6. Within the scope of each of the thirteen investigations, the Inquiry have indicated in the relevant scopes of investigation, that they will test the law enforcement response to the relevant allegations of child sexual abuse.

The Inquiries Act 2005

7. S21 (1) (a) Inquiries Act 2005 allows the Chair of the Inquiry to require a person to give evidence or produce documents that relate to the Inquiry. It is recognised that the Inquiry may choose to require retired police officers to give evidence at Public Hearings. For the simple reason that serving officers will not be able to give primary evidence about the actions taken by a retired officer or the force.
8. Although the Chair of the Inquiry can require an Individual to provide material to the Inquiry or give evidence at a public hearing, S14 (1) Civil Evidence Act 1968 gives the right to prevent self-incrimination of a criminal offence. This enables an individual to refuse to answer any question or produce any document or thing. 'Criminal Offence' will include the common law offence of Misconduct in Public Office.
9. Core Participants have certain benefits as defined by the Inquiries Act 2005 and the Inquiry Rules 2006. Some retired officers may wish to apply, as an Individual, for Core Participant Status, if they consider themselves to have a particularly close connection to the Inquiry's work¹. The Inquiry has published some frequently asked questions about 'Core Participant Status' on its web site - <https://www.iicsa.org.uk/sites/default/files/core-participant-faq-for-website-dec-2015.pdf>

¹ See R (5) (1) of the Inquiry Rules 2006.

10. When the Chair of the Inquiry requires a person to attend a Public Hearing, S40 of the Inquiries Act provides the mechanism by which the Inquiry can pay for expenses properly incurred, or to be incurred. This would include travel expenses and overnight accommodation if that was necessary by virtue of where the retired officer currently lives.

Issues for the Force

11. This guidance document has been developed in consultation with the Police Federation of England and Wales (PFEW), the Police Superintendent's Association of England and Wales (PSAEW), the Chief Police Officers' Staff Association (CPOSA) and the National Association of Retired Police Officers (NARPO). Its purpose is to provide advice and guidance on interaction between the Inquiry and retired Police Officers ().
12. This guidance is not prescriptive. It is intended to provide consistency in the way that the Inquiry and forces interact with retired officers but also recognises that there will be a variety of different scenarios that may arise. Not all individuals will be criticised; some may be commended for their actions and, in certain circumstances, an individual could be praised but the force criticised. There are too many scenarios to provide guidance on each possibility.
13. For a variety of reasons, retired officers may wish to have legal representation that is independent of the relevant force. This will normally arise if there is conflict between the retired officers position and that of the force.
14. S88 (1) of the Police Act 1996 states that Chief Officers are liable for torts committed by officers under their direction and control. S88 (2) provides that any damage or costs awarded against the Chief Officer and any costs they incur themselves (which are not recovered) should be met from police authority funds.
15. H/O circular 43/2001 (Amended 21/09/01) provides guidance to police authorities on financial assistance to police officers in legal proceedings².
16. The H/O circular also clarifies (paragraph 4) that the powers provided by S88 of the Police Act 1996 may also apply to police officers who were members at the time of the action which gave rise to the claim but who are no longer members.
17. The conclusion of the HO circular states, "In summary, police officers must be confident that Police Authorities will provide financial support for officers in legal proceedings where they have acted in good faith and have exercised their judgement reasonably. Police Authorities will need to decide each case on its own merits, but subject to that there should be a strong presumption in favour of payment where these criteria are met."
18. Individuals or Institutions who are given Core Participant Status may apply to the Inquiry for legal costs. However, it is anticipated that the Chair of the Inquiry is unlikely to award legal costs to individuals who were acting in good faith on behalf of a publically funded institution and that the

² It endorses Home Secretary approval of guidance in legal proceedings in light of the Divisional Court Judgement of 21st of March 1999 (R v South Yorkshire Police Authority).

OFFICIAL

Chair's expectation would be that the Institution itself considers funding relevant legal representation. The Inquiry has published a costs protocol for legal representation at public expense on its web site. [Costs Protocol](#)

19. Forces are encouraged, at an early stage, to consider their position with respect to funding legal representation for retired officers. Any uncertainty is likely to harm the welfare of the retired officer.
20. Individual Forces are also encouraged to provide support services, such as counselling or other occupational health provision, to retired officers affected by the Inquiry.
21. Forces are encouraged to appoint a 'Force Contact Officer' when it becomes clear that the Inquiry wishes to engage with a retired officer. This person will be instrumental in providing or facilitating relevant support, care and professionalism in future contact. Forces will also need to consider whether they have a single force contact officer or appoint several. This will normally depend on the number of retired officers that the Inquiry are likely to engage.

Initial Contact

22. There are a number of reasons why the Inquiry may wish to make contact with a retired officer. Ordinarily, this will be when the Inquiry wishes to ask a retired officer further questions about their actions or more generally about an investigation into child sexual abuse that they were directly or indirectly involved in. In some circumstances, they may wish to identify whether a retired officer **wishes** to give evidence at Public Hearing. Notwithstanding that the Inquiry has the authority to compel any person, including retired officers, to give evidence.
23. The Inquiry has undertaken that, with the exception of when officers have already made direct contact with them, the Inquiry will not directly contact retired or serving police officers.
24. In the first instance, the Inquiry will contact the force where the retired officer was serving at the relevant time of the incident. This contact will be facilitated by Operation Hydrant.
25. The force will be required to identify the contact details for the retired officer. The Inquiry normally make initial requests using Rule 9 of the Inquiry Rules 2006 but they will issue a S21 notice under the Inquiries Act 2005 that compels the force and provides a legal mandate to share the information if necessary.
26. The force will then contact the retired officer in writing, informing them of the Inquiry's interest and offering them a face-to-face visit. Forces should always endeavour to follow up initial written contact with a face-to-face visit. It is recognised that there will be times when forces will not be able to offer a face-to-face visit. Such as when a retired officer has moved a significant distance away from the force. Forces will need to consider the most appropriate medium for communication. It may be appropriate to offer a "video call" as an alternative.
27. If the retired officer declines a face-to-face visit, they will be advised, in writing, that their details will be shared with the Inquiry and the legal basis under which that disclosure is made (normally a notice under S21 of the Inquiries Act 2005)

28. Forces will not routinely disclose the retired officer's details to the Inquiry, without having sought their permission first. Any decision by the 'force contact officer' to disclose details without informing the relevant retired officer first, will be recorded along with the associated rationale. It is accepted that there may be occasions when the Inquiry requires details about a large number of retired officers but then may decide that only a small number of the initial cohort will have evidence relevant to their investigation.
29. If the retired officer consents to a face-to-face visit, then the force contact officer will identify an appropriate person to visit them and explain the nature of the Inquiry's interest. They will also discuss whether the retired officer is happy for their details to be shared and the reality that the force may be compelled to share their details, even if they do not consent. The appropriate person may be the force contact officer but it is accepted that this will not always be possible - depending on the volume of retired officers involved and where the retired officers live.
30. The force contact officer should also consider whether it is appropriate to prepare a risk assessment with respect to the relevant retired officer and/or other individuals linked with the request. Reviews of the risk assessment or decision should take place in compliance with the local processes and as further information becomes available.
31. The content of any letter or meeting should include the nature and context of the Inquiry's interest. The force contact officer should insure that the following areas are covered.
 - a. Whether there are any medical reasons why the retired officer may not be fit to give evidence at a Public Hearing, the nature of such medical reasons and whether the officer consents to sharing those details with the Inquiry at an early stage and potentially before they are formally required to give evidence.
 - b. Whether the retired officer would like to be referred to the 'Occupational Health' services that the relevant force can offer and provide.
 - c. Whether the retired officer would like their details to be shared with the most appropriate staff association/s. The retired officer should be reassured that staff associations have been briefed about the Inquiry and are available to offer support.
 - d. How the retired officer would prefer to be contacted in the future. There usually being a choice between telephone call, written letter and/or email.
 - e. Whether the retired officer wishes the force to be involved in any future contact by the Inquiry – with a written declaration to support that request. This will be particularly relevant if the retired officer does not wish the force to be involved and would prefer all contact to come directly from the Inquiry.
 - f. Whether the force can share relevant written material with the retired officer, that may be of use in refreshing their memory. It will be for the force to satisfy itself that it can lawfully share the material with the retired officer.
 - g. The retired officer should be signposted to the IICSA web site <https://www.iicsa.org.uk/> and given copies of the IICSA information leaflets with respect to Core Participant Status.
 - h. The force should indicate, if known, whether it intends to apply for Core Participant Status or state whether it has already been granted/refused Core Participant Status.

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- i. The force should inform the retired officer of any local process they would need to follow in order to apply for that funding from the force.
 - j. The force should indicate at the earliest opportunity whether any broad policy decisions have been taken with respect to the force's position on funding legal representation with respect to retired officers who are required to provide evidence to the Inquiry. However, reassurances must be given that any application for funding of legal assistance will be considered on its individual merits.
 - k. The wishes of the retired officer in terms of any future engagement with the media. Would they like the force to assist with this.
 - l. Any other information that may inform a risk assessment as a result of the interest and interaction with the force.
 - m. A single point of contact should be offered by the force to the retired officer for any incidents that may arise as a result of that Inquiry's interest in that individual.
32. In cases where the retired officer elects to deal directly with the Inquiry (with or without the support of a staff association), the force should reassure the retired officer that this does not dilute their entitlement to welfare support or legal representation.
33. The force contact officer should ensure that a written summary is prepared of any face-to-face meetings that take place. Exact copies should be shared with the retired officer and, notwithstanding that the Inquiry may require full disclosure under S21 of the Inquiries Act, agreement should be sought from them as to what detail of the meeting will be shared with the Inquiry.
34. The force contact officer should respond to any Inquiry requests via Operation Hydrant – using the iicasupportteam@southyorks.pnn.police.uk email address.
35. The force contact officer should as a matter of best practice, keep a log of all contact with relevant retired officers.

Media Enquiries

36. The Force should consider the needs of retired officers in preparing any communication or media strategies. Individuals should be made aware of such strategies and should be given prior notice before any press releases that may identify or reference them are made.
37. The Force should offer to deal with any media enquiries that the retired officer receives, should that be the preference of the individual, agreeing any statements with them.

Further Advice

Please contact iicasupportteam@southyorks.pnn.police.uk if you would like to discuss this advice further. Thank you.