

**IN THE MANCHESTER ARENA INQUIRY**

**BEFORE SIR JOHN SAUNDERS**

**IN THE MATTER OF:**

**A PUBLIC INQUIRY INTO THE DEATHS OF 22 PEOPLE THAT LOST THEIR  
LIVES AT THE MANCHESTER ARENA ON 22 MAY 2017**

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**GMP'S APPLICATION FOR ANONYMITY AND SPECIAL MEASURES ON  
BEHALF OF ITS WITNESS "F2" [OPEN SUBMISSIONS]**

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**Introduction**

1. Pursuant to s.19 Inquiries Act 2005 (IA) and to the Inquiry's Protocol on Applications for Restriction Orders dated 1<sup>st</sup> January 2020 ("the Protocol"), GMP seeks to apply for anonymity/special measures for its witness "F2".<sup>1</sup>
2. These submissions are "open" – thus available to the Inquiry team; all Core Participants (CPs); members of the public and press; and may be published on the Inquiry's website as the Chair sees fit. Accompanying "closed" submissions are also attached. It is the intention of GMP that the "closed" submissions may be seen by the Inquiry Legal team and all CPs, who are of course bound by the undertaking to the Inquiry. GMP seeks to withhold its "closed" submissions from the wider public and press only, and from publication, and not from any direct participants in the Inquiry.
3. Pursuant to paragraph 4 of the Protocol this application consists of:

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<sup>1</sup> This is a cipher chosen at random for use in the open submissions. The identity of the witness is available in the closed submissions.

- a. These open submissions which aim to contain as much information as may safely be provided without defeating the purpose of the application;
  - b. Closed submissions containing more detail about the grounds for the application, closed to all save the Inquiry Legal Team and other CPs;
  - c. A closed witness statement from F2, which is closed to all save for the Inquiry Legal team;
  - d. A closed overarching/supporting witness statement from Chief Superintendent Chaudhry in support of F2's application, which is closed to all save for the Inquiry Legal Team;
  - e. A draft order.
4. GMP invites the Chair to grant an order providing for the following measures for witness F2:
- a. The use of a pseudonym during evidence heard in public and in documents/reports published by the Inquiry;
  - b. That no questions are asked of F2 that may lead to F2's identity being revealed;
  - c. That F2 be screened from members of the public and the press and is not live streamed when giving evidence.
  - d. Secure entry and exit from the court to shield F2's identity from the wider public and press.
5. To be clear, by this application GMP does not seek to prevent any of the CPs, including the families, from having full access to F2's evidence in the hearing. It is simply aimed at protecting F2's identity from being disclosed to the wider public and press.

## **Legal basis of the Application**

6. While recognising there is a presumption of openness in inquiry proceedings, s.19 IA 2005 allows the Inquiry the power to depart from that presumption where there are proper grounds for doing so. It is submitted that in this case such proper grounds do exist.
  
7. In this case the basis for making this application arises from s.19(3)(a) and s.19(3)(b) of the IA. Specifically the following grounds apply:
  - a. 19(3)(a): Article 2 and 3 ECHR: the order is required to comply with a statutory provision, namely s.6 HRA 1998. A real and immediate risk to F2's life and/or a real and immediate risk to F2 of Article 3 ill-treatment would be created or materially increased if F2 gave evidence without the anonymity and screening from the wider public and press that is sought.
  
  - b. 19(3)(a): Article 8 ECHR: the order is required to comply with a statutory provision, namely s.6 HRA 1998. The disclosure of the identity of F2 to the wider public and press would amount to an unjustified interference with F2's personal and professional life. In particular, without the order F2 would suffer a significant interference with their ability to pursue their chosen career. The order sought is necessary and proportionate to strike the appropriate balance between the effect on F2, the needs of the Inquiry and the presumption of openness.
  
  - c. 19(3)(a): Common law duty of fairness: the order is required as a matter of law arising from the common law duty of fairness. F2 has genuine and well-founded fears that they and others may be put at risk by the revelation of F2's identity. In conducting the balancing exercise necessary when applying the common law test, the balance falls in favour of granting the order.
  
  - d. 19(3)(b): Public Interest: the order is necessary in the public interest in order to protect F2 from a real risk of death or injury if their identity were revealed. It is also necessary to ensure that F2's ability to perform their specialist job is not fundamentally impaired or impeded which would cause real harm to the public interest in keeping people safe. F2's evidence is not likely to be subject to significant scrutiny such that allowing F2 to remain shielded from the wider public and press

would impede the allaying of public concern. The balance falls in favour of making the order.

### **Factual basis of the Application**

8. The factual basis for this application on F2's behalf is essentially three-fold. In summary the application is based on:
  - a. The nature of F2's role – in F2's specialist role it is essential that F2 remains covert. F2 and other officers in the same position take care to maintain anonymity both professionally and personally in order to preserve their ability to act covertly. This is essential so the operations F2 is involved in are not compromised. Any compromise to F2's identity would create risks of harm or reprisal to F2 and to others.
  - b. The credible and specific risks to F2 – there is clear and credible evidence of specific past threats of serious harm towards officers in F2's position. F2 continues to work in the same dangerous environment where such threats might emerge at any time. The past threats demonstrate the reality of the continuing threat to F2.
  - c. The difficulty of replacing F2 – if F2 were not granted the measures requested then their ability to conduct the covert role would be compromised and F2 would be risk assessed and very likely removed from those duties. This would lead to a significant time lag in replacing F2 given the difficulties in recruiting and training officers to F2's level. It would also lead to significant expenditure of resources in that all the investment in F2 would be lost and would have to be duplicated for another officer. For the period of time F2 was unable to undertake their duties there may also be a corresponding increase in the potential risk to the wider public who currently benefit from the protection F2 can provide.
9. It is further submitted that the issues under consideration on the other side of the balancing exercise – the public/openness side, are not such as to outweigh any of these very real concerns:

- a. F2 will give evidence without concealing their identity from any of the CPs in the Inquiry.
  - b. F2 can be questioned and their evidence fully tested and examined, in public, without the need to reveal their identity to the wider press and public.
  - c. F2's personal role and conduct is not controversial in the factual matrix of the Inquiry.
  - d. There is no compelling reason why F2 should be named or identified to the wider public or press.
  - e. By contrast, the granting of the measures sought would put F2 at their ease, alleviate F2's concerns and thereby encourage the provision of best evidence.
10. When all the above factors are weighed up, the balance is in favour of granting the order. The protective measures sought are proportionate, justified and necessary. Granting the measures sought would maximise the opportunity for the Inquiry to receive evidence in a full and comprehensive manner, thereby enabling the Inquiry to fulfil its Terms of Reference.

21<sup>st</sup> September 2021