

## National Oversight Group Minutes

Wednesday 22 October 2015 - 14:00 – 16:00, Avonmouth House, London

### 5.11 Apologies, Welcome & Introductions (Alex Marshall)

Alex Marshall welcomed all to the group and asked for initial introductions:

#### Attendees:

Name	Role
Alex Marshall (Chair)	College of Policing
Stephen Otter	HMIC
Sophie Khan	People Action Centre
Sue Mountstevens	Avon and Somerset Police and Crime Commissioner
	A clinician working to support undercover officers
Richard Martin	Metropolitan Police
Christopher Nathan	University of Warwick
Jon Boutcher	Bedfordshire Police
David Tucker	College of Policing
Gordon Ryan	College of Policing
Kerry Robinson	College of Policing
<b>Apologies:</b>	
Rob Beckley	College of Policing
Joe McGuigan	HMRC
David Carrigan	Independent Advisory Group
Dr Chris Nathan	Warwick Interdisciplinary Ethics Research Group
Bob Satchwell	Society of Editors
Prof Ben Bowling	Dickson Poon School of Law
Peter Jukes	Media consultant
Tom Gash	Institute for Government
Chris Green	Merseyside Police
Mick Creedon	National Lead Organised Crime
John Dilworth	Crown Prosecution Services
Dr Bethan Lofthouse	Centre for Criminology
Shaun Sawyer	Devon and Cornwall Police

Alex Marshall noted that it's the second meeting. The group needed to be clear on its purpose, why we are meeting, and if membership is appropriate. Leading into the next agenda item.



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## Terms of Reference

- 2.1 Alex Marshall invited comments from the group on the terms of reference and meetings.
- 2.2 To assist Alex Marshall noted that the College of Policing are focussed on setting evidence base, educational requirements, accreditation and oversight for this area of work. He wants to ensure the work of the College stands us up to challenge on this area of work.
- 2.3 There was a discussion about the need for members of the group to challenge police and other law enforcement agencies' use of undercover tactics. The way the group operates must encourage this challenge.
- 2.4 One member remarked that he had been a critic of some aspects of undercover work and that the College had recently recognised his criticisms and is working to address them.
- 2.5 Stephen Otter noted that the need for change had been well reported – he stated that now we need to see results. The ability to question the products and solutions designed isn't within terms of reference and he suggested this should be included. He added that it would be good for people to feel that they can ask difficult questions and be able to get responses – this group should be an open platform do so. He concluded that undercover policing is an ethical issue in itself.
- 2.6 Alex Marshall noted that the Code of Ethics does acknowledge and cover covert policing and thanked Stephen Otter for the suggestion to adapt the terms of reference.
- 2.7 Sue Mountstevens added that due to her role and in representing PCCs she was keen to improve public confidence and be open and transparent without moving into operational issues. She is keen to explore any inconsistencies between forces in relation to training, policies and procedures – there should be no reason why you can't define what the standards are. Furthermore, there should be no reason why selection / training policies etc. can't be made public.
- 2.8 Alex Marshall concluded that the Terms of Reference would be updated in response to comments made and he was happy to take comment and suggestions on improvement and membership. **David Tucker took an action to progress and conclude this work.**

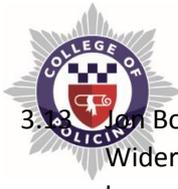
### 5.13 HMIC Report

- 3.1 Sue Mountstevens asked if this report is different to the NPIA report. The NPIA report is mentioned in the HMIC report and Stephen Otter commented that the NPIA report had contained many of the issues referred to in the HMIC report. Jon Boutcher noted that the NPIA report now has traction and this was not the case at the point it had been released.
- 3.2 Jon Boutcher added that we are going to produce an action plan that comes from NUWG, the College and the Crime Business Area. It will be brought here to give oversight and scrutiny. **An action was taken to ensure this action plan was presented to the group at the next meeting.**



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- 3.3 Gordon Ryan added that there had been changes in leadership and that from the point that this had been resolved more work, effort and impetus to get a mechanism and process in place to put those recommendations in place commenced.
- 3.4 Alex Marshall noted that the College now has a clear role – prior to that we had lack of clarity in relation to who would be held to account for standards. Chief Constables can have different views on undercover – some will know the tactic in great detail, whilst for others, knowledge is much more limited. This is niche part of policing business and Chief Constables are now more involved and recently took part in a training session on RIPA. The College role is to set consistent standards.
- 3.5 Members recognised that the oversight structure could be thought to have limitations. A further complexity is the nature of codes of practice and their tie into military and intelligence overseas.
- 3.6 Christopher Nathan added that this work therefore presents us with the opportunity to improve standards in training and awareness of such issues.
- 3.7 Jon Boutcher also noted that there were other interested parties in the work we are progressing. Mark Ellison QC has done some work on behalf of Home Secretary and continues to progress activity in this area. Jon Boutcher is writing to him formally asking him to come and talk to officers about the investigation he did and the broader work he has done. His key focus is to take lessons learned very seriously.
- 3.8 Christopher Nathan asked if the code of ethics was featured in the training. Alex Marshall stated that we would be able to map this out for the group to understand how it is embedded within training and the wider product offer.
- 3.9 Gordon Ryan noted that, in ensuring the group is able to scrutinise selection and training of undercover officers, there is a need to consider the risk of exposing any interested party to face to face contact with serving undercover officers, thereby revealing the identity of an undercover officer.
- 3.10 Alex Marshall added that we do therefore need to consider what is presented and open for challenge whilst avoiding putting officers at risk.
- 3.11 Sophie Khan stated that she didn't think the group need access to officers – the group just need to see what the training programme is, how this is monitored, how it is reviewed. Her view is that the issues have occurred here as there wasn't a framework to test if people were following the rules.
- 3.12 Stephen Otter also noted that there is no regulator in policing and no powers of sanction to HMIC or the College. HMI believe that one important thing the College has is membership. Conditions to be a member must state that you must behave in a certain way.



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- 3.13 Jon Boutcher noted that all Chief Constables had a day on this very matter on Thursday. Wider work has also taken place, the Home Secretary, Mark Ellison, wider reviews – this has created an impetus that is so strong, this oversight group and the peer oversight group are now in place and we have the success factors needed to make sure that those recommendations and broader things such as participation are dealt with.
- 3.14 Stephen Otter stated that this is a highly specialised area that is resistant to change, and it will be difficult for the College or the NUWG to make the changes. Certainly there is a lot of leadership being applied to this now. The truth was difficult. The inspection found people were critical of their own organisations. Resistance is a cultural thing. Leadership needs to take responsibility. Even within the leadership there are lots of cultural issues. If we go into it thinking this is a transactional piece of work it won't work.
- 3.15 Jon Boutcher acknowledged that there is a lot that is not in the report that needs to be done. Some of that is culture, some will be because people don't want it to change. There is a recognition of that and the job is not underestimated. Success factors are there if we plot them.
- 3.16 Sue Mountstevens added that the HMIC report not asking for anything difficult – it was asking for consistent policies and training. These are the standards, this is what we want - if forces don't do it, surely this should be made public?
- 3.17 Public Order works in a consistent fashion so does firearms. This is a good example of where the type of approach Sue mentions works. However, the cultural element also needs to be addressed. This is something wider than structure of a licensing system.
- 3.18 Alex Marshall noted that any profession has a series of accreditations. In policing there is some inconsistency, you can't use firearms without accreditation. Yet in child abuse and other high risk areas accreditation is a new concept, with no current licensing and no need to authorise. There is a developing acceptance that the ownership of standards has moved to the College. There is no doubt that the College sets standards in this area, there will be one set of standards in the future. In accreditation and licencing we have a really strong ability to ensure this is put in place and we will ensure that officers continue to keep their continuous professional development ongoing to ensure a licence to practise.
- 3.19 Jon Boutcher stated that the key next step is to take the action plan to Chief Constables council, which is in progress. His aim is to get all chiefs to agree the remit of improvement activity so it has leadership backing and wide momentum to then embed and change the way the discipline operates. This has to be a package deal though. Some Chiefs might not like some elements of change suggested but the changes come as a package and should not be subject to pick and choose. With majority support, we will move forward.
- 3.20 Sophie Khan and Sue Mountstevens questioned whether it is a choice for Chiefs to implement if the College are saying these are the standards to follow.
- 3.21 Alex Marshall responded advising that the College works with the service to set the standard. However, where there is no unified model it does make it more difficult and



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- complex, although from a training perspective there will only be one training standard, owned and delivered centrally by approved people.
- 3.22 Stephen Otter recommended to the group that they should be prioritising of all of the recommendations around accrediting, licencing, standards.
  - 3.23 Another key area of focus has to be psychological support – officers have been given the wrong type of support. Stephen suggested that forces should know that they may be vulnerable to challenge from officers. Policy, procedures, training, selection, care of the officers, standardising procedures are areas for forces to focus their attention
  - 3.24 Sue Mountstevens added that another important thing is that the PCCs hold Chief Constables to account. Sue suggested that it may also be of use to provide PCCs with training to ensure that they know how Chief Constables should be operating within this discipline.
  - 3.25 Richard Martin noted that due to the sheer nature of the role and because officers are posted across the country, this an area that needs to be standardised, consistent and fair to them to make it easier for them. Currently we could be failing those who operate as undercover officer’s day in / day out who should have our support
  - 3.26 Sophie Khan asked how long it would take to implement improvements. Stephen Otter stated he would expect to see considerable change within a year.
  - 3.27 Jon Boucher noted that there are areas where we can make improvements straight away. There is good practice that other forces could adopt as a standard.
  - 3.28 There was discussion about how to ensure psychological support for officers. **David to bring a response back to the next meeting.**
  - 3.29 Jon Boucher noted that there is a full programme of work dealing with the improvements broken down into projects for National, Selection, Training, Mental Wellbeing, Continuous Professional Development, Authorised Professional Practice and Accreditation. Below that there are a number of work strands and a programme board to progress this work. Furthermore, Jon added that there is a NUWG being held tomorrow to progress further action and to agree how to move forward. Jon is generating an action plan which will be shared with this group.
  - 3.30 David Tucker also noted that there is a public facing document in design which he has asked to be edited further. Richard Martin suggested this should come to the group for challenge and development.

## 5. Actions From Previous Meeting

### 5.1 The Evidence Base



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5.2 Alex Marshall noted that within the previous meeting it was acknowledged that there was not a strong evidence base, Ben Bowling was actioned to consider what the research questions would be academically framed to consider this further.

5.3 Christopher Nathan noted that this is within in the UK although wider research has taken place in the US.

5.4 Gordon Ryan added that behind the 2012 report there was a literature review. This was not a comprehensive / evaluation of existing literature base – but it did bring together literature from the US / Holland – there is nothing restricted in its findings and this could be shared with the group. **Gordon was actioned to share this with the group.**

## 6. Transparency in Other Jurisdictions

6.1 Alex Marshall reminded the group that Bob Satchwell had suggested we look at how transparency operated in the United States.

6.2 Richard Martin advised the group that his understanding was that in the states officers are deployed for one operation and then give testimony in their real name. This is not the system used in England and Wales.

6.3 It was asked if the group was to engage with PSNI and Police Scotland. Lessons learned from PSNI could certainly be transferrable.

6.4 Alex Marshall noted that would need to ensure we do engage with these forces.

6.5 Alex Marshall noted that PSNI are keen to adopt the same standards and the programme needs to engage closely with both forces to ensure that these valid issues are covered and responded to.

## 7. Oversight of Undercover

7.1 David Tucker noted that he would re-write the Terms of Reference to account for discussions held earlier. He queried wider membership. Sir Christopher Rose was suggested as a member. Jon Boutcher took an action to ask but noted that this might not be agreeable.

7.2 New procedures and guidance were coming out later in the year which could also link to aspects of undercover policing and that the group should monitor Sir Christopher's position.

## 8 RIPA

8.1 Sophie Khan had raised RIPA as a discussion item and asked the group whether authorisations can be made public if they are requested.



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8.2. John Boucher responded and noted that recent cases have shown that authorisations will be reviewed at court – the application and authorisation are now separate documents so that authorities can be given in evidence.

8.3 There was a discussion on RIPA. After the discussion, it was queried whether RIPA was within the terms of reference for this group. This group is focused on undercover, which is one aspect of RIPA. Members were keen not to widen the focus of the group, but also recognised that RIPA is a cause of concern to some people.

8.4 Alex Marshall stated that it would be helpful to clarify understanding on RIPA at the next meeting to set out the different categories of RIPA activities so that members had a greater understanding.

**8.5 Richard Martin offered to produce this for the next meeting and an action was taken to ensure this is completed.**

## 9 Communication

9.1 Alex Marshall noted that the group was missing people from the attendee list and the College would seek to book the next meeting with further notice. Alex Marshall asked for suggestions from people in the room as to who should be here.

9.2 Alex Marshall added that he would like to be able to say publicly that we have set up a group that provides oversight of undercover policing and also asked for views if those present were happy to publicise the meeting and attendees. This might also help draw in other attendees.

9.3 Sophie Khan and Sue Mountstevens stated they would be happy to be named. One member was not keen to have details on the public domain.

9.4 Alex Marshall added that he was keen to publish the terms of reference and details of those present. **Alex Marshall to send a letter to members inviting comments about publicising names of people on the group.**

## 10 Next Steps / Next Meeting

10.1 Gordon Ryan suggested that as areas of work are about to be finalised these are presented to the group in future meetings so that product and process can be considered and challenge.

10.2 Alex Marshall thanked Gordon for the suggestion and an **action was taken to integrate this into the next agenda.**

10.3 Sophie Khan asked if she could let people know of her attendance at the meeting and extend the invite to others. Sophie also raised concerns that people should be aware of the meeting and able to attend.



Alex Marshall noted he was happy at this stage for Sophie Khan to suggest further attendees for the group for Alex to then determine if it would be appropriate to invite further members.

## National Undercover Oversight Group – Action Log

Date / Item	Action	Owner	Status
22/10/14 2.8	Update the terms of reference to include the ability to challenge, enquire and ask questions about the ethical nature of the discipline.	David Tucker	Open
22/10/14 3.2	The NUWG action plan would be shared with the group via correspondence once in draft.	Jon Boutcher	Open
22/10/14 3.27	To develop plans for providing psychological support for uc officers	David Tucker	Open
22/10/14 4.3	To release the literature review completed as part of the NPIA 2012 review into training, selection and support for undercover policing.	Gordon Ryan	Open
22/10/14 5.5	To produce a non-technical briefing on RIPA and present to the group at the next meeting.	Richard Martin	Open
22/10/14 6.4	Alex Marshall to write to members to invite views about confidentiality of details of group members	Alex Marshall	Open
22/10/14 7.2	The next agenda should include present products designed to date by each project theme to enable the group to challenge items in design.	Gordon Ryan	Open