



Approved for publication

National Oversight Group Minutes

11th Meeting – Wednesday 3rd May 2017, 11.00am at
Riverside House, Southwark.

Attendees:

Name	Role
Alex Marshall (Chair)	College of Policing
David Tucker	College of Policing
Jo Jakymec	CPS,
Teena Chowdhury	College of Policing – Undercover Registrar
Alan Pughsley	NUWG
Andy Ward	NPCC, Public Inquiry Coordinator (by phone)
Natalie Williams	Kent Police
Apologies:	
Matt Parr	HMIC
Simon McKay	Barrister
Katerina Hadjimatheou	Warwick University
Michael Lupton	A/Det Chief Supt – Head of Operations - NCTPOC
D/Ch Supt Chris Green	North West ROCU
Sam Lincoln	Former regulator

Name	Role
Sue Mountstevens	APCC

1. Welcome & Introductions (Alex Marshall)

1.1. Alex Marshall welcomed all attendees.

2. Apologies noted

2.1. The Oversight Scrutiny Group (the Group) noted that Kat Hadjimatheou had regrettably sent apologies for the meeting and the Group was therefore unable to direct any queries to her in relation to her paper about the application of the Neither Confirm Nor Deny (NCND) policy.

3. Previous minutes

3.1. The minutes of 19th January 2017 had been circulated ahead of the meeting and were accepted as accurate and approved for publication on the College website.

4. Actions

4.1. The views of the Group about random drugs testing, raised at the last meeting, had been shared with the NUWG. The NUWG had taken action to establish a policy with agreed core principles related to random drug testing. This was challenging due to variations in current practice. The NUWG will establish a preferred position and are aiming to get the majority of forces to sign up. The Group noted that the accreditation process will check that undercover units have a policy in place that is appropriately tailored to risks and that it is being implemented in practice.

4.2. The Panel's terms of reference were noted. The terms of reference require all members to adopt the Code of Conduct and agree to observe it. It was agreed that the Code of Conduct would be circulated for members to review the contents and any comments or queries would be considered at the next meeting.

Action – Code of Conduct to be circulated before the next meeting and added to the agenda for the next meeting.

5. Accreditation Process

5.1. Teena updated the Panel about the work to design and deliver the accreditation of undercover units. Decisions about accreditation will be taken by a panel comprising

three individuals from the College of Policing and an individual working in a senior operational role who will act as adviser to the panel. The role of the panel will be to embed governance and quality assurance into the decision making process.

- 5.2. A software application (PSQMS) will be used to submit information required for accreditation. Once the final stages of development of PSQMS had been completed, Teena will write to units to invite them to apply for validation of their accreditation. Documents cannot be uploaded to PSQMS but it was expected that a limited number of documents would be requested and the disclosure of information about individual tactics would not be required.
- 5.3. Teena expected to begin the accreditation process before June 2017 and site visits will begin during Autumn 2017.
- 5.4. Members of the Group queried whether the NUWG had been appropriately engaged to ensure that there was buy-in to the process, that the scrutiny of units was robust and to ensure accreditation was perceived as credible. The Group heard that peer reviewers (operational staff working in undercover units) would be invited to attend site visits, give advice and make recommendations. Teena was exploring how peer review could best be used as a tool to support learning and share good practice amongst units.
- 5.5. It was suggested that the NUWG should attend all panel meetings where accreditation decisions were considered. Teena said that the College was ultimately accountable for accreditation and there were risks that the process could be criticised as not sufficiently impartial if the suggested approach were adopted. It was agreed that the NUWG lead on accreditation and Alex Marshall would be asked to comment on the process and any concerns would be fed back to the Group. The College would then lead on accreditation and reach decisions independently from the NUWG.
- 5.6. Members of the Group queried the legality and credibility of decisions where the College accredited an undercover unit on the basis of evidence that it was undertaking safe, ethical and legal practice and later information emerged that suggested that the safety, legality and/or ethics of a tactic was deficient. Teena advised the Group that it was not legitimate for accreditation to be considered as capable of resolving all the risks associated with undercover policing as it was primarily the professionalism of policing staff that led to safe, ethical legal outcomes being achieved. The role of accreditation was to set and measure standards for the management and governance of undercover units.
- 5.7. Alex confirmed that the College of Policing was responsible for all accreditation decisions and that it was a feature of these kinds of assurance mechanisms that decisions could be taken and information later emerges that challenges the basis on which earlier decisions were made.

Action – Teena to set out the accreditation process for the NUWG lead and Alex Marshall to review.

6. Undercover Policing Public Inquiry (UCPI)

- 6.1. Andy Ward updated the meeting about UCPI. Current indications were that the Inquiry would not report until 2022. The Chair of the Inquiry, Lord Justice Pitchford would shortly be stepping down due to ill-health and a new Chair had not yet been nominated. The Inquiry team were embarking on a strategic review of its work to date which would be reviewed by the new Chair of the Inquiry. It appeared that the initial focus of the Inquiry would be on the National Public Order Intelligence Unit and Special Demonstration Squad.
- 6.2. Andy noted that any emerging issues that required immediate attention were being actioned.
- 6.3. Alan Pughsley, chair of NUWG, suggested that the Group could usefully provide additional scrutiny of the changes being implemented.

Action – the Group agreed that an update from NUWG would be a standing agenda item for future meetings.

Action – the Group to review its membership and terms of reference in relation to reviewing the changes to practice occurring in light of the Public Inquiry that are being led by the NUWG.

7. Neither Confirm Nor Deny (NCND)

- 7.1. The Group decided to defer its discussion about the NCND policy¹. Alex asked the Group whether it would be appropriate for the Group to reach an agreed position in relation to the use and application of the NCND policy and communicate its position to UCPI. The Group decided that it was unlikely that it would be able to reach an agreed position as it appeared that some members had opposite views. It was also noted that the NCND policy was established in case law and legislation and its reach extended beyond undercover policing. The Group was therefore not best positioned to challenge the NCND policy and any changes to its use and application would likely need legislative changes.

¹ “Neither Confirm nor Deny: Secrecy and Disclosure in Undercover Policing” K. Hadjimatheou, December 2016, Criminal Justice Ethics.

7.2. Members of the NUWG noted that practices had changed since the paper was drafted and the challenges presented in the paper had begun to be addressed.

7.2 A member of the Group said that it would be difficult for the lay public to challenge the use of the NCND policy and there was a role for the Group to review current practice to consider whether the risks and challenges presented in Kat's paper had been addressed.

Action – the representative from NUWG to send a short paper outlining the current operation of the NCND policy and how decisions are scrutinised for consideration at the next meeting.

Action – NCND to be added to the agenda for the next meeting.

9. Any other business

9.1 None raised.

10. Next meeting

19 July 2017, 11:00 – 13:00, Riverside House

Meetings for Remainder of 2017

18th October 2017, 11:00 – 13:00, Riverside House