



National Oversight Group Minutes

9th Meeting – Tuesday 5th July 2016, 11.30am at

Riverside House Southwark.

Attendees:

Name	Role
Alex Marshall (Chair)	College of Policing
Sue Mountstevens	APCC – by phone
Katerina Hadjimatheou	University of Warwick
David Tucker	College of Policing
Mick Creedon	NPCC Lead for Serious and Organised Crime
Joe McGuigan	HMRC, by phone
D/Supt Chris Green	North West ROCU, by phone
John Dilworth	CPS, by phone
An NCA representative	
Apologies:	
Jon Boutcher	Chair, National Undercover Working Group
A psychologist	
Dr Chris Nathan	Warwick Interdisciplinary Ethics Research Group
Jeff Hill	ACC
Michael Lupton	A/Det.Chief Supt - Head of Operations - NCTPOC

1. Welcome & Introductions (Alex Marshall)

1.1. Alex Marshall welcomed all attendees. Introductions were made

2. Apologies noted

3. Previous minutes

3.1. The minutes of 17th January 2016 had been circulated ahead of the meeting and were accepted as accurate and approved for publication on the College website.

4. Actions

4.1 Two actions were outstanding and both were on the agenda for this meeting.

5. Ethics Event

Kat Hadjimatheou

5.1 Kat Hadjimatheou introduced a paper setting out details of a scenario based event that had been hosted by the College and run by Warwick University.

5.2 The event had been attended by academics who are working with police, a barrister with knowledge of covert policing, a former commissioner with the Office of Surveillance Commissioners and others with expertise of undercover policing.

5.3 The scenario was intended to allow attendees to set out their considerations when presented with decisions that had to be made around deployment of undercover policing and other related issues.

5.4 The event had allowed lively discussion and the paper developed from those discussions presented eleven recommendations. These were discussed. The paper is attached as annex A to these minutes.

5.5 It was agreed that most of the recommendations should be dealt with as feedback for the consultation on undercover policing authorised professional practice.

<p>Recommendation 1. Guidance in training and policy documents that the proportionality of an undercover deployment should take into</p>	<p>Does the APP contain sufficient discussion of these issues? RIPA and codes does make</p>
--	---

<p>account the extent to which the target is already involved with the criminal activity at the centre of the target group (or would be involved with it in the absence of undercover police activity).</p>	<p>much mention of proportionality, but does it need to be repeated in APP? To be taken forward through feedback process for APP.</p>
<p>Recommendation 2: Applications for U/C authorization should include clear guidance to the U/C as to the kind of relationship they should cultivate and the conduct of that relationship including, e.g. avoiding conduct that falls short of entrapment but might encourage criminality and the potential to deflect vulnerable people from a life of crime.</p>	<p>For consideration for inclusion in APP</p>
<p>Recommendation 3: Applications for U/C authorization should include clear indications of when an operation will come to end or at least which considerations will determine that and a clear exit strategy in order to minimize the risks mentioned above.</p>	<p>Is the APP clear enough on this? To be picked up in feedback for APP consultation.</p>
<p>Recommendation 4. Aims and objectives of the operation should be clearly and explicitly articulated in the application for the authorization and decision to authorise.</p>	<p>Is the APP clear enough on this? To be picked up in feedback for APP consultation</p>
<p>Recommendation 5. Guidance on targets should reflect the view that, while it is permissible for police to focus their efforts on people associated with organised criminal groups in this manner, this must be done in a way that is sensitive to:</p> <ul style="list-style-type: none"> • the seriousness of the crime at the centre of 	<p>Is the APP clear enough on this? To be picked up in feedback for APP consultation</p>

<p>the group,</p> <ul style="list-style-type: none"> • the degree of connectedness of the target to that crime, • the potential loss of opportunities to prevent criminality, • the extent to which the target would be expected to become involved in criminal activities in the absence of any contact with undercover police, and • the extent of harmful manipulation, exploitation and intrusion to be imposed on the target and those who suffer these as collateral harms. 	
<p>Recommendation 5A. CoP should revise guidance to interpret 'collateral intrusion' broadly, to include a range of harms. Harms that undercover officers may cause are not limited to intrusions but also include manipulation and exploitation. It is therefore misleading that the guidance limits consideration of collateral harm to 'intrusion'. The College take the lead -- through training and policy documents -- in making the case that this term should be interpreted broadly to include all relevant harms.</p>	<p>There was a discussion about collateral intrusion. Feedback from the event suggested that this term is too restrictive and that there should be consideration of broader 'collateral harm'. To be considered as part of the APP consultation feedback</p>
<p>Recommendation 6. CoP to lobby for a change to legislation such that a single AO is engaged for the duration of a UC deployment with an obligation to inform the chief officer of all forces affected.</p>	<p>It is beyond the College remit to lobby for law changes. However, the point that there needs to be as much consistency in authorisation is a good one and will be considered as part of the APP consultation feedback</p>

<p>Recommendation 7. Production of a new scenario with 'branched' decision-making for use with other groups (e.g. senior police) and to use as the basis for a case study for public consumption explaining how undercover policing functions. Given the possibility of more than one decision, progressing a scenario of this sort on a single answer did not allow us to explore the consequences of previous decisions. CoP should develop the scenario using branched decision-making. An electronic version could use a gaming approach to allow an overview of the development of an operation. This could also be used for public awareness-raising and engagement purposes. The public debate on the deployment of undercover policing remains polarised in part because of a general failure to confront the tricky kind of operational issues described here. The College's role includes taking a lead in informing public debate in a way that focuses directly on operational issues. An example of a case study developed for these purposes is the GCHQ website 'How to Catch a Terrorist': https://www.gchq.gov.uk/features/how-does-analyst-catch-terrorist. A CoP undercover version could improve significantly on the GCHQ attempt by introducing complexity and raising for consideration specific dilemmas at crucial points in the investigation.</p>	<p>Agreed – College will explore this</p>
<p>Recommendation 8. Remove the policy of 'neither confirm nor deny' and replace with a policy of consideration of each case on its merits</p>	<p>Following very robust discussion, this recommendation was rejected. NCND is a legal position and considered vital to maintaining</p>

	integrity of the tactic.
<p>Recommendation 9. Set out certain particular circumstances in which information will, in principle be provided. A set of theoretical sufficient conditions for disclosure of information would have the positive effect of assuring the public that police are proactively responsive to the ethical considerations at hand.</p>	<p>As above. Concern was expressed that loosening of NCND could lead to compromise of undercover tactics and safety of operatives.</p>
<p>Recommendation 10. CoP should encourage establishment of mandatory channels of communication between AOs such that an AO knows about all deployments in a particular area so that s/he is able to consider the overall intrusion and the proportionality of the total operation, rather than single strands.</p>	<p>To be taken forward as part of feedback process for the APP consultation</p>
<p>Recommendation 11. Take steps to establish a programme of research supporting best practice in UC. Greater transparency and a more balanced view of the use of UC could be provided if there was a body of research, such as a survey or study with views from UCO's and AO's. Currently much of the evidence on practice is provided only through inquiries into what went wrong. As a result, there is scant evidence of good practice, so that the public can see the benefits/successes of UC and police can model their own actions on those positive actions of others.</p>	<p>Discuss with Knowledge, Research and Evidence team at the College</p>

Action – David Tucker to take forward relevant recommendations to the APP Consultation feedback process.

Action – David Tucker to explore a ‘branched’ scenario to allow greater sophistication to the event.

Action – David Tucker to raise the issue of research with Knowledge, Research and Evidence team.

6. Undercover APP/Positive media approach

6.1 Alex Marshall updated the meeting on the recent media exposure for the launch of undercover APP. The coverage had been positive in that it recognised that publication of APP on undercover policing increased transparency. Coverage also focused on the prohibition of sexual activity and whether use of drugs by undercover officers could be permitted .

6.2 There is potential for further coverage because one media outlet is interested in a broader based story on the measures being taken within policing to ensure undercover policing is delivered safely, ethically and legally.

7. Public Inquiry

7.1 There has been quite a lot of activity. The College has had two further information requests from the Inquiry team. UCPI team has visited two forces and they have the ambition to visit all forces.

8. New member

8.1 As a result of the Ethics Event, the College has received a request from an attendee to become a member of the Panel. He is on holiday for this meeting, but would like to attend future meetings. There was a discussion after which it was agreed to invite the person to join and also to revisit the invitation list to see if any more people from outside of policing can be encouraged to join.

Action – David Tucker to review the invitation list.

9. Any other business

9.1 The psychologist member of the panel had asked that an e-mail he sent was read out. This was done and will be followed up with him outside the meeting.

10. Next meeting

10.1 19th October 2016 at 11am

David Tucker to take forward relevant recommendations to the APP Consultation feedback process.	David Tucker		
David Tucker to explore a 'branched' scenario to allow greater sophistication to the event.	David Tucker		
David Tucker to raise the issue of research with Knowledge, Research and Evidence team	David Tucker		
David Tucker to review the invitation list	David Tucker		