



Home Office

Home Secretary

2 Marsham Street,
London SW1P 4DF
www.gov.uk/home-office

Michael Matheson MSP
Cabinet Secretary for Justice
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

11 January 2016

Thank you for your letter of 10 December regarding the statutory inquiry into undercover policing and whether the activity of undercover officers in Scotland will be considered by the inquiry.

The terms of reference for the inquiry, which have been consulted upon, specify that it should "...inquire into and report on undercover police operations conducted by English and Welsh police forces in England and Wales since 1968".

The inquiry has independent status under the Inquiries Act 2005 and it is for them to consider evidence against the terms of reference. At this stage, I understand that the inquiry is receiving evidence from as wide a range of persons who can assist it as possible. They are interested in the whole story and are bound to encourage those coming forward to provide a complete picture when submitting their evidence. The terms of reference as drafted are, I understand, already eliciting a significant volume of material for consideration.

I am not minded to expand the terms of reference at this time, but I am happy to discuss further with you by telephone if you would find that helpful.

The Rt Hon Theresa May MP



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Michael Matheson MSP
Cabinet Secretary for Justice
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Dear Michael

9 March 2016

Following our telephone conversation on 2 February, I undertook to look at whether anything could be done to enable the undercover policing inquiry to consider specific incidents where Metropolitan Police officers have been involved in national operations in Scotland.

I have made further careful consideration of the issues in light of your concerns. It is clear that the inquiry is unable to take, or give any degree of consideration to, any evidence relating to activities in Scotland within the existing terms of reference. The only way to enable such evidence to be considered is through an amendment to the terms of reference. As you know, I am not minded to revisit the scope at this stage given the impact of doing so. I must therefore advise you that, regrettably, the inquiry will not be able to consider activities in Scotland.

I am copying this letter to the Secretary of State for Scotland.

Yours sincerely

The Rt Hon Theresa May MP

Cabinet Secretary for Justice
Michael Matheson MSP

T: 0300 244 4000
E: scottish.ministers@gov.scot



The Rt Hon Theresa May MP
Home Secretary
2 Marsham Street
London
SW1P 4DF

22nd March 2016

Dear Theresa,

Thank you for your letter of 9 March which followed our telephone conversation on 2 February. You agreed to look to see if anything could be done to enable the Pitchford Inquiry to consider specific incidents where Metropolitan Police officers have been involved in national operations in Scotland. I note with some disappointment that you are not minded to revisit the scope of the inquiry at this stage.

Your letter states that the only way to enable consideration of evidence of activity that took place in Scotland would be to amend the terms of reference. In your letter of 11 January you mentioned that the inquiry is interested in 'the whole story and are bound to encourage those coming forward to provide a complete picture when submitting their evidence'. I agree with that approach but the current terms of reference allow only part of that story to be considered by the inquiry. As you are aware, there is a great deal of Scottish interest in understanding the full story of how the Metropolitan Police may have operated in Scotland, and it is my understanding that a number of individuals are already providing Lord Pitchford's Inquiry with information that relates to MPS activities in Scotland. I therefore remain of the view that the best course of action would be to extend the remit of the inquiry to cover MPS activities in Scotland.





Best wishes

MICHAEL MATHESON



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Michael Matheson MSP
Cabinet Secretary for Justice
The Scottish Government
St Andrew's House, Regent Road
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12 April 2016

Dear Michael,

Thank you for your further letter of 22 March regarding the inquiry into undercover policing in England and Wales.

The inquiry's terms of reference do not include Scotland and so the inquiry team have not requested to be sent evidence in relation to Scotland. Although the Chairman of the inquiry has a wide discretion as to which documents he reviews, given the parameters of the inquiry established by the terms of reference he will not be able to make any conclusions or findings with regard to activities in Scotland even if such evidence is submitted. Any evidence which relates to activity outside England and Wales is beyond the inquiry's terms of reference.

[REDACTED]

[REDACTED]

During the lifetime of the inquiry any material which it receives will only be passed to a third party with the express permission of the supplier of that information. Once the inquiry has concluded, all material will be lodged with the National Archives and the usual rules of access to archived material will then apply.

The Rt Hon Theresa May MP

Cabinet Secretary for Justice
Michael Matheson MSP

T: 0300 244 4000
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The Rt Hon Theresa May MP
Home Secretary
2 Marsham Street
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SW1P 4DF

25th May 2016

Dear Theresa,

Thank you for your letter of 12 April, setting out the Home Office's position that the Pitchford Inquiry's remit should be limited to England and Wales.

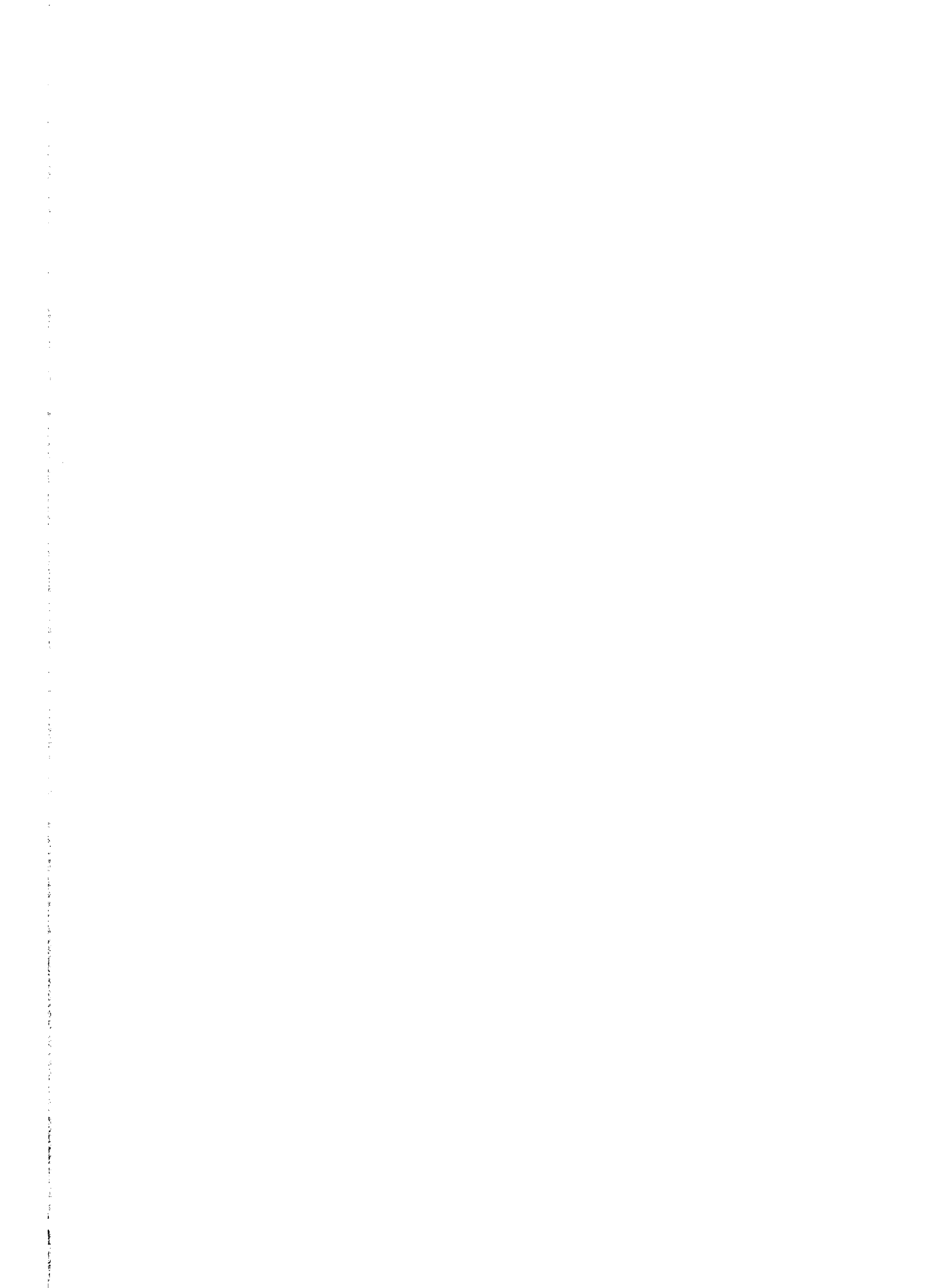
I have since been copied into the correspondence you received from the then Justice Minister in Northern Ireland, David Ford, which makes a new and helpful proposal. He proposes that the Inquiry be empowered to consider any relevant evidence of activities that have taken place in any UK jurisdiction, where it is considering a case in England and Wales and the operative has subsequently crossed a jurisdictional boundary. I would support this position and believe that it should also apply in relation to Scotland.

You will, of course, be aware that the types of deployment that the Inquiry is looking at were not operationally isolated within England and Wales. The operations were multi-jurisdictional, and in order for the Inquiry to obtain the 'whole story' and 'complete picture' that you mentioned in your letter to me of 11 January, the Inquiry has to be able to follow all the evidence, and not just events which took place in England and Wales. The narrower approach you are currently pursuing risks doing a disservice to people in Scotland affected by the activities of a force falling under the oversight of your department. I would therefore be grateful if you could give this matter your further consideration.

I am copying this letter to the Justice Minister in Northern Ireland and the Secretary of State for Scotland.

Best wishes

MICHAEL MATHESON





Home Office

Brandon Lewis MP
Minister of State for Policing
and the Fire Service

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www.gov.uk/home-office

Michael Matheson MSP
Cabinet Secretary for Justice
St Andrew's House
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25 July 2016

Dear Michael,

Thank you for your correspondence of 25 May addressed to the former Home Secretary regarding a proposal made by the former Minister of Justice in Northern Ireland, David Ford, in relation to the undercover policing inquiry. I am replying as the Minister of State for Policing and the Fire Service.

I have also responded to Claire Sugden MLA, the current Minister of Justice in Northern Ireland, regarding David Ford's proposal and her letter to the Home Secretary dated 15 June. As both of the original letters were copied to you, please find enclosed copies of my reply.

It would not be possible to apply David Ford's proposal in Scotland for the same reasons as outlined in my letter to Claire Sugden. The Home Secretary does not intend to extend the scope of the inquiry beyond England and Wales, for reasons also set out in the enclosed letter and in the Home Secretary's previous correspondence with you.

I am copying this letter to the Minister of Justice in Northern Ireland and the Secretary of State for Scotland.

Rt Hon Brandon Lewis MP

Claire Sugden MLA
Minister of Justice
Minister's Office Block B
Castle Buildings
Stormont Estate
Ballymiscaw
Belfast
BT4 3SG

22 July 2016

Dear Claire,

Thank you for your letter of 15 June to the former Home Secretary regarding the scope of the undercover policing inquiry and earlier correspondence from your predecessor, David Ford, on the same matter. I am replying as the Minister of State for Policing and the Fire Service.

The current terms of reference for the undercover policing inquiry specify that it should "...inquire into and report on undercover police operations conducted by English and Welsh police forces in England and Wales..." This geographical limitation reflects both the police forces involved and the scope of the Home Office's responsibility for policing.

The former Home Secretary has given careful consideration to the request that the inquiry be empowered to consider evidence in relation to activities that have taken place in any UK jurisdiction, where it is considering a case in England and Wales and the operative has subsequently crossed a jurisdictional boundary.

It is not possible to accommodate this request within the inquiry's existing terms of reference. The current terms of reference do not include Northern Ireland and therefore the inquiry team has not requested to be sent evidence in relation to Northern Ireland. Although the inquiry Chairman has a wide discretion as to which documents he reviews as being appropriate, given the parameters of the inquiry established by the terms of reference, he will not be able to make any conclusions or findings with regard to activities in Northern Ireland even if such evidence is submitted. Any evidence which relates to conduct or police forces outside England and Wales is beyond the inquiry's terms of reference. If the inquiry were to look at evidence relating to Northern Ireland, for example because it was implied that they should do so, a risk arises that it would be acting outside of its powers, as defined in the terms of reference.

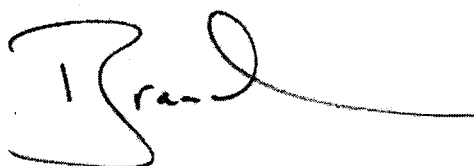
In the event that the request could not be met within the existing terms of reference, your predecessor asked that the former Home Secretary give consideration to changing them. The inquiry as it stands is extensive and complex, with around 200 core participants. Amending the terms of reference at this stage would require further consultation and delay the progress of the inquiry.

In the interests of learning lessons from past failures and improving public confidence, it is important that the inquiry proceed swiftly and make recommendations as soon as possible. The Home Office is confident the inquiry can both gain an understanding of historical failings and make recommendations to ensure unacceptable practices are not repeated without a need to consider every instance of undercover policing, wherever it was undertaken. We note that the Police Service of Northern Ireland is in direct contact with the Metropolitan Police Service and the organisations are working together to address immediate concerns. On balance, therefore, the former Home Secretary has confirmed she does not intend to amend the terms of reference.

Your predecessor also mentioned the possibility of the inquiry sharing any evidence it receives. The inquiry is independent and it can not be directed to pass evidence it receives to any other organisation although it may, of its own volition, do so if it considers appropriate. During the lifetime of the inquiry any material which it receives will only be passed to a third party with the express permission of the supplier of that information. Once the inquiry has concluded all material will be lodged with the National Archives and the usual rules of access to archived material will then apply.

I am copying this response to the Permanent Secretary at the Department of Justice, the Secretary of State for Northern Ireland and the Cabinet Secretary for Justice in Scotland.

You may be aware that KRW Law submitted a Pre Action Protocol (PAP) on behalf of their client, 'Jason Kirkpatrick and Others', threatening a legal challenge (Judicial Review) of the failure to extend the terms of reference for the undercover policing inquiry to Northern Ireland. A response will be provided on 22 July. KRW Law had requested a full copy of all representations made by the Minister of Justice for Northern Ireland to the Home Secretary in respect of the application to extend the terms of reference of the inquiry. We have therefore provided copies of your own and David Ford's correspondence, and will also provide a copy of this reply.

A handwritten signature in black ink, appearing to read 'Brandon Lewis', with a long horizontal flourish extending to the right.

Brandon Lewis MP