

**Written evidence submitted by
Birnberg Peirce & Partners and Tuckers Solicitors [UP 01]**

**Inconsistent statements on the policy in respect of sexual conduct by
undercover officers**

Jon Murphy, the ACPO lead [?], commented in respect of sexual relationships, *"It is never acceptable for an undercover officer to behave in that way... It is grossly unprofessional. It is a diversion from what they are there to do. It is morally wrong because people have been put there to do a particular task and people have got trust in them. It is never acceptable under any circumstances ... for them to engage in sex with any subject they come into contact with."* [reported in Guardian – 19.01.11]

In answer to a written question submitted to the Commissioner by GLA assembly member, Jenny Jones in June 2011

Q126: What guidance is issued to undercover officers about avoiding becoming an agent provocateur, and about the forming of sexual relations?

Answer:No authority is ever granted for an undercover officer to engage in a sexual relationship whilst deployed on an authorised police operation.

In response to a Freedom of Information Act request made by Rob Evans of the Guardian newspaper to Metropolitan police

Under the act, I would like to know :

1) when was the first time that a directive or guidance was issued by the National Public Order Intelligence Unit to its staff making it clear that undercover police officers employed by the unit were prohibited from having sexual relations with the targets they were carrying on surveillance on;

2) how many directives or guidance have been issued since then, and on what date was each of these directives or guidance issued.

Under the act, I would also like to request :

1) complete copies of each of directives or guidance;

2) complete copies of any policy or discussion papers held by the National Public Order Intelligence Unit which discusses this subject since January 1 2011.

Response [16.11.2011]

"All Police Officers when joining the Metropolitan Police Service are provided with a copy of the Police Conduct and Discipline code and must adhere to the code at all times. There is no other information held that is relevant to your request."

From Her Majesty's Inspectorate of Constabulary HMIC report [February 2012]

"The sample of NPOIU records examined by HMIC should have contained much more detail on how the risks of intrusion were assessed and managed. For example, Mark Kennedy, by his own admission, had intimate relationships with a number of people while undercover, and in doing so encroached very significantly into their lives. NPOIU documentation did not provide assurance that such risks of intrusion were being systematically considered and well managed across the organisation".

HMIC found that Mark Kennedy operated outside the Code of Conduct for Undercover Officers (see p.16).

Nick Herbert, Minister for policing, in adjournment debate with Caroline Lucas:

"The RIPA statutory guidance does not explicitly cover the matter of sexual relationships, but it does make it clear that close management and control should be exercised by the undercover officer's management team. That will be a relevant factor. The absence of such management gave rise to concern in the Kennedy case."

"I am not persuaded that it would be appropriate to issue specific statutory guidance under RIPA about sexual relationships. What matters is that there is a general structure and system of proper oversight and control, rather than specific directions on behaviour that may or may not be permitted. Moreover, to ban such actions would provide a ready-made test for the targeted criminal group to find out whether an undercover officer was deployed among them. Specifically forbidding the action would put the issue in the public domain and such groups would know that it could be tested." [June 13th 2012]

Written question from Caroline Lucas MP to Damian Green, (current) Minister for policing: *"To ask the Secretary of State for the Home Department whether her Department has issued any guidance to chief constables on the circumstances in which authorisation should be given to an undercover police officer to (a) start and (b) continue a sexual relationship with someone who is the target of undercover surveillance; whether any such guidance includes making provision for appropriate supervisory arrangements to ensure that officers do not start or continue relationships without authorisation; and if she will make a statement. [121107]*

Damian Green: *"No. The Regulation of Investigatory Powers Act 2000 and its associated statutory code of practice make it clear that deployment of undercover police officers as covert*

human intelligence sources is required to be necessary and proportionate and to be closely monitored and managed by the force concerned.

The personal conduct of any police officer is a matter for the force concerned”

13 Sep 2012 : Column 360W

At the Police and Crime Committee meeting on 27 September 2012, Deputy Commissioner, Craig Mackay answered questions on this area:

JJ: ... would a serving police officer be given authorisation to start a sexual relationship with an activist while using a false identity

DC: not ordinarily, no

JJ: What do you mean “not ordinarily”

DC: Well you can't write a rule for every particular scenario. They give a preauthorization for deployment but a pre authorisation for deployment would cover conduct and code it would not get down into the level of detail of saying you can or can't [pause]

JJ; So would that officer have to report back to his supervisor on that relationship if there was pre-authorisation.

DC: Yes if there was a relationship they'd have to report back.

...I did say absolutely that pre-authorisation, we do not do pre-authorisation about relationships

JJ: You said not ordinarily

DC: if people are..eh..involved or become involved in a relationship it has to come back to the supervisor straight away.

LD: that begs the question, what happens what the supervisor does. What advice does the supervisor give in those circumstances to the officer – one to protect the employee as well as the other party involved who may well be a suspect but more likely might not be a suspect because the relationship is there so what advice is the supervisor meant to have given to the operative

DC: It's not covered in detail in the guidance I will write to you with the advice. I am not a supervising officer so...

.... Our expectation is they will not engage in long term relationships and get involved in the sort of things that you're describing and are well documented in terms of those sorts of things but if you're saying to me is there a scenario where it could never happen effectively we end up with, I'll make it up, that undercover officers are all subjected to a sexual test, um, it's very very hard to sit and write those rules sitting here. If you said that “I'm a member of a group and I decide to test whether X or Y is an undercover officer by em some sort of sexual test”, that's an incredibly difficult thing to sit and write at the centre. Let me be clear – those long term relationships that you're describing are not where undercover officers should be.

JJ: No I know they shouldn't be there. It's really what the Met... Are you saying now it could not happen?

DC: Providing the supervisor works..it couldn't happen. But that absolutely relies on individual supervision. That's why we've put all the work in...

JJ: But we've established that supervision is a little bit dodgy haven't we. Generally.

DC: No, em,

JJ: It can be.

DC: It can be. But undercover officers and the work and the focus that's gone on on the back of both the HMIC report and the work we've done has brought a load of those things into much more line around how it's managed, how it works and the individual role of that supervisor. Because for an undercover officer, the supervisor is the crucial link....

JJ: I just feel that what I would like to hear from you is a blanket assurance that permission, preauthorization for a sexual relationship with an activist is never given. I really would like some sort of, because I just can't see that the HMIC would think very much of that scenario either

DCL That's why I'm saying to you I can't see that scenario happening now. I cannot see that scenario happening now. But what I can't do to you is give you a written guarantee for that so let me come back to you on that in the new code and if it's as specific as that then I'll let you know.

File on Four programme broadcast on 2 October 2012

Question: What is the Met's position on relationships undercover?

DEPUTY ASSISTANT COMMISSIONER PATRICIA GALLAN: Well, I think first of all there is the law and then there is also what is morally right. The law is silent on the matter. If you ask me about what morally is right, then I think it is one of those things that we cannot legislate for every single circumstance. If a circumstance happens where that happens with an officer, I would expect them to immediately report that to a supervisor. Each case needs to be looked at on its merits, but it is something I would question severely about why it has happened.

Damian Green, letter to Caroline Lucas, November 2012

"The Government shares the view expressed by a number of senior police officers that it is not appropriate for officers to enter into sexual relationships with members of the public they come into contact with in the course of their duties and that this is not authorised activity."

House of Commons debate, 26th November 2012

Damian Green: The requirements for supervising and managing the deployment of undercover officers are set out in the Regulation of Investigatory Powers Act 2000 and its related statutory code of practice. In addition, the Association of Chief Police Officers produces its own guidance on managing undercover deployments. Senior police officers have made clear in recent months that it is not acceptable for the police to engage in sexual activity with members of the public, and that this is not authorised conduct.

Home Affairs Select Committee, 28th November 2012

Q354 Mr Winnick: If an undercover agent engages in sexual activity in the group to which he or she has been sent to do police work, would that be considered appropriate?

Bernard Hogan-Howe: It certainly should not be part of the strategy to do that. The fact that it may sometimes happen, I think, could almost be inevitable. Not that I would encourage it, obviously, but when you are deploying an officer to live a lifestyle and they are going to get close to a target or a group of targets, it is not impossible to imagine that human relationships develop in that way. We put various things in place to make sure that, if it is going to happen or there is a likelihood of it happening, we spot it early and get the UC out before it happens, but it is not impossible given human relationships.

Birnberg Peirce & Partners and Tuckers Solicitors
January 2013

**Written evidence submitted by
Tuckers Solicitors on behalf of their client 'Charlotte' [UP 02]**

1. I Charlotte (real name withheld) write this statement for the Home Affairs Select Committee sitting on 5th February 2013 and looking into the issue of Undercover Policing. I would have liked to have come to the committee and give evidence in person. I mean no disrespect by not attending. I simply wouldn't be able to cope with it at this time. My life fell apart on 14 June 2012 when I learned the truth about my ex-partner Bob Lambert (aka Bob Robinson) and the father of my child. My mental health has suffered and I am now under a consultant Psychiatrist at The Priory Hospital and am required to attend there every Tuesday for 12 weeks for a full day's treatment.

2. The 14 June 2012 was an ordinary Thursday. I came home from work at about 4pm, as I don't work Fridays, Thursdays are the start of my weekend. I made a pot of coffee and because the weather was good, I took the paper (Daily Mail) and the coffee out to the garden. As I flicked through the paper I saw the picture of Bob Robinson in the 80s – it was 'my' Bob, my son's dad. I had not had news of him for approximately 24 years and there was his face staring back at me from the paper.

3. I went into shock, I felt like I couldn't breathe and I started shaking. I did not even read the story which appeared with the picture. I went inside and phoned my parents. My dad got the paper from their nearest shop and my mum got out the photos out of Bob and our son, at the birth and when he was a toddler. They confirmed to me, that by comparing photos, it was definitely Bob.

4. The article was about Caroline Lucas naming Bob Lambert in Parliament as the third bomber of Debenhams and an undercover police officer. So I phoned the House of Commons that evening and asked for Caroline Lucas. A researcher answered the phone and I told them that I was the mother of Bob Lambert's son. I was given the details of a solicitor representing other woman who police officers had had relationships with. I didn't sleep all that night. My head was full of memories and questions. I was examining every memory again looking for clues that I should have seen that would have revealed his identity. I needed to know if I was just a part of Bob's cover story, and if our son, who he'd abandoned was also just a part of his cover story.

5. The next morning I got the number for St Andrews where the article said Bob worked. I called the university and asked for Bob Lambert, I was put through to a woman in his office. She was understandably cagey but I burst into tears and told her that I was the mother of his son. She could hear that I was in a state and said to me she would call Bob, tell him I'd phoned and she would call me back if there was any message. She said whatever happened she would come back to me. Ten minutes later the phone rang and it was Bob. This was the first time I had heard his voice for 24 years but I recognised it. It was very emotional. I remember asking him 'why me', he also sounded emotional. He could not answer my questions, I had many. I wanted to know if the force chose me or if he did, I also wanted to know if he had chosen to abandon me and our son or if he was under orders to do so. In the end his answers did not help, they threw up more questions and they counted for nothing as I could no longer believe a word he said.

6. When I was a teenager in the early 1980s I got involved in animal rights and began attending meetings and protests. In about 1984, when I was 22 years old, I was living alone and met a man who called himself 'Bob Robinson'. He told me that he worked as a gardener in north London. He got involved in animal rights and made himself a useful member of the group by ferrying us around in his van.

7. I feel that 'Bob Robinson' targeted me. He was always around, wherever I turned he was there trying to make himself useful, trying to get my attention. I think he was about 12 years older than me. It now seems that he worked to build a relationship with me, which developed into an intimate friendship and which became sexual. I believed at the time that he shared my beliefs and principles. In fact, he would tease me for not being committed enough. I was a vegetarian but he encouraged me to become a vegan and he got me to become more involved in 'direct action' and London Greenpeace. My relationship with Bob was my first serious relationship.

8. Although Bob had a bedsit, he would stay with me. We set up home together. He would sometimes go off for a short while saying he had to visit his dad with dementia in Cumbria and sometimes he went off saying that he had a gardening job. Most the time while we were together he lived with me.

9. Around Christmas 1984 I became pregnant. Bob seemed excited by the news and he was caring and supportive throughout the pregnancy. Bob was there by my side through the 14 hours of labour in the autumn of 1985 when our son was born. He seemed to be besotted with the baby. He was a great dad and I had no reason to believe that our son was not his first. I didn't realise then that he was already married with two other children.

10. Our relationship broke down in/around 1987. With the benefit of hindsight I can now see how he orchestrated breakdown of our relationship. It was very hard time for me. He continued to visit our son after he moved out and we continued an intimate relationship until one day when he said he had to 'go on the run' to Spain, owing to him being involved in the firebombing at the Debenhams store in Harrow. He promised he would never abandon his son and said that as soon as it was safe I could bring our baby to Spain to see him.

11. He abandoned me to support our son alone and to explain to him the disappearance of his father. I felt guilty. At that time I blamed myself a lot for the break up and for the fact that my son had lost his father. I tried to track Bob down countless times over the years but those efforts were doomed to failure as I did not even know his real name. Then out of the blue I saw the article in the newspaper on 14th June 2012.

12. Since seeing the article my life has been devastated, I describe 14 June as the day of the earthquake and a big hole opened up. All my security, everything I took for granted fell down the hole. All subsequent revelations are like the 'aftershocks' I feel so confused and hurt by what has happened. I don't understand what I am supposed to have done that I was chosen by the state to be treated like this. I was no threat to national security and what was my child – collateral damage?

13. 6 months on from that traumatic revelation in the newspaper and I'm a long way off from coping with it. What I can now say with confidence is that there can be no excuses for what he did, for the betrayal, the manipulation and the lies. There is no middle ground, no half-truth that makes sense of his actions. This has been the hardest part to accept; not to make excuses for my friend and lover, not to let him still have a small piece of my heart. I loved him so much, but now have to accept that he never existed, he was a phantom but the damage is real.

Statement of Charlotte. (not her real name).