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**INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER  
OF POLICE**

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**RULING ON APPLICATION FOR CORE PARTICIPANT STATUS**

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1. This is a short ruling on applications made to the Inquiry for Core Participant (**'CP'**) status. The Inquiry's Core Participants Policy (**'the Policy'**) was finalised following the Second Preliminary Hearing on 20 September 2022.<sup>1</sup> Each participant designated as a CP will enjoy the participatory rights set out in paragraph 3 of the Policy. However, as emphasised in paragraph 4 of the Policy, it is not necessary to be designated as a CP to provide evidence or information to the Inquiry, be a witness in proceedings, receive expenses for attending the Inquiry as a witness (if the relevant criteria are met), to watch or attend public hearings or read transcripts of hearings and such other documents made available on the Inquiry website.
2. The Inquiry has already granted CP status to the four participants who, according to the relevant provisions of the Police Act 2006, could theoretically have played a role in Mr McGrail's retirement (see paragraph 8 of the Policy). Namely:
  - a. Mr Ian McGrail himself;
  - b. The Chief Minister the Hon Fabian Picardo KC MP;
  - c. The Interim Governor at the relevant time Mr Nicholas Pyle OBE; and
  - d. The Gibraltar Police Authority.

CP status was also granted to HM's Attorney-General for Gibraltar, Michael Llamas CMG KC.

3. Pursuant to the Policy, any other person was provided the opportunity to apply for CP status on or before 7 October 2022. The Inquiry received applications from the following parties:
  - a. The Royal Gibraltar Police (**'RGP'**);
  - b. The Gibraltar Police Federation (**'GPF'**);
  - c. Retired Superintendent Paul Richardson (**'Mr Richardson'**); and
  - d. Her Majesty's Government of Gibraltar (**'HMGOG'**).

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<sup>1</sup> The Policy is available on the Inquiry's website: <https://coircomp.gi/wp-content/uploads/2022/09/Core-Participants-Policy-22.09.22.pdf>.

4. This ruling addresses the applications by the RGP, GPF and Mr Richardson. The application by HMGOG will be addressed in a separate ruling, once the Inquiry has been able to consider the recent response it has received to certain queries that it made in response to HMGOG's application.

### Consideration of applications for CP status

5. Upon receipt of an application for CP status, paragraph 5 of the Policy requires me to consider, in particular, whether:
  - a. the person<sup>2</sup> played or may have played a significant role in relation to matters to which the Inquiry relates ('**the First Consideration**');
  - b. the person has a significant interest in an important aspect of the matters to which the Inquiry relates ('**the Second Consideration**'); or
  - c. the person may be subject to significant criticism during the Inquiry proceedings or in its final or any interim report ('**the Third Consideration**').
6. However, as explained in paragraph 6 of the Policy, I am not obligated to designate anyone a CP on the grounds that one or more of the circumstances are found to exist in the case of a particular applicant. Rather, I have a wide discretion, and will also have regard to the need to act fairly and to avoid any unnecessary cost. As to the latter, I note that none of the applicants for CP status have applied for a Legal Expenses Funding Award, so this factor has not impacted upon my conclusions below.

### A. The RGP

7. In its application for CP status, the RGP argued that it "*played a role and, in any event, has a significant interest in the findings of the Inquiry*" in at least seven out of the ten issues identified in the Inquiry's Provisional List of Issues.<sup>3</sup> This corresponds with the First Consideration (although I note that the Policy requires the person to have played a "*significant role*") and the Second Consideration.
8. I am satisfied that the RGP, either as an organisation as a whole or through the conduct of individual officers, played a significant role in each of Issues 1 to 7, namely (adopting the abbreviations in the Provisional List of Issues): the Airport Incident, the Assault Investigation, the Incident at Sea, the HMIC Report, the Conspiracy Investigation, the Federation Complaints and the Alcaidesa Claims. The RGP is expressly named in

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<sup>2</sup> In this context, the term "person" should be construed as including other bodies.

<sup>3</sup> Available here: <https://coircomp.gi/wp-content/uploads/2022/09/Provisional-List-of-Issues-22.09.22.pdf>.

each of these provisional issues, except for Issue 6 (the Federation Complaints). However, I am also satisfied that RGP officers are likely to have played a significant role in Issue 6, given the overlapping membership of the RGP and Gibraltar Police Federation, which serves as a representative body for RGP officers. Therefore, the First Consideration plainly applies to the RGP, and the Second Consideration also probably applies.

9. As explained above, this conclusion does not obligate me to grant CP status to the RGP. However, I am satisfied that granting CP status to the RGP would be of overall benefit to the Inquiry. I have had regard to the following matters:
  - a. It would assist the Inquiry in its function to grant the participatory rights outlined in paragraph 3 of the Policy to the RGP. As a direct participant in the relevant events, the RGP (and its legal representatives) are likely to be in a position to make a valuable contribution to the Inquiry beyond that which could be accomplished by hearing evidence from individual police officers.
  - b. Fairness also tends in favour of granting CP status to the RGP (a matter which the Policy specifically requires me to consider), and allowing it the participatory rights outlined in paragraph 9(a) above, given its significant role in the events.
10. Therefore, I grant CP status to the RGP.

## **B. The GPF**

11. The GPF has applied for CP status on the basis of the First and Second Considerations. I accept, as the GPF submits, that it played a significant role in Issue 6, namely: “*Any complaint(s) made by the Gibraltar Police Federation (‘the Federation’) and or its members to the Gibraltar Police Authority about Mr McGrail (‘the Federation Complaints’)*”. The GPF is expressly named in this issue and clearly in a position to give evidence on it, either as an organisation or through its members. Further, I am satisfied that the Inquiry would benefit from the GPF and its lawyers exercising participatory rights in relation to this issue.
12. Beyond Issue 6, the GPF asserts that it “*is directly involved in a number of provisional issues*”, as several issues concern the conduct of police officers who are members. However, this does not necessitate that the GPF is granted CP status on all issues. In reaching this conclusion, I note the following:
  - a. The substantial cost of the GPF participating as a CP in relation to all issues, and the additional time that would be expended through the involvement of a

further CP, would not be proportionate given the GPF was not directly involved in those issues. Nor is it necessary for the GPF to receive disclosure on issues they were not directly involved in.

- b. The RGP has been granted CP status (see above). The GPF “*represents practically all serving police officers below the rank of Superintendent*”, whose interests will also be represented by the RGP.
- c. Further or alternatively, individual police officers will be able to give evidence on any issue in the capacity of a witness. Should it become clear that the Inquiry would benefit from a particular officer participating as a CP in relation to one or more issues, it may invite an application from that individual officer.

13. I therefore grant CP status to the GPF in relation to Issue 6 only. I note that this course has been taken in other Inquiries, for example the Independent Inquiry into Child Sex Abuse.<sup>4</sup> Of course, this decision can be kept under review if it emerges that the GPF did play a significant role in any of the other issues.

### **C. Mr Richardson**

14. Mr Richardson has applied for CP status on the basis of the First and Second Considerations, submitting that “*as a senior officer of the Royal Gibraltar Police he played a significant role in several of the incidents and investigations*” on the Provisional List of Issues, and “*has a significant interest in the accurate description, analysis and interpretation of those events*”. At the outset, I note that as a retired officer, Mr Richardson is not represented by Cruz Law, who acts on behalf of the RGP. Therefore, he will not be able to exercise participatory rights by virtue of the RGP being granted CP status.

15. It is noted that Mr Richardson is represented by Nicholas Gomez of Charles Gomez & Co., (solicitors to Mr McGrail) with Nicholas Gomez acting as agent for Mariel Irvine of Mariel Irvine Solicitors and that the Police Superintendents’ Association for England and Wales stand behind Mr Richardson in respect of his application for CP status.

16. I accept that Mr Richardson played a significant role in the following provisional issues, as outlined in his application:

- a. In relation to Issue 1 (the Airport Incident), Mr Richardson interviewed the three suspects.

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<sup>4</sup> See [https://www.iicsa.org.uk/key-documents/303/view/core-participant-status-faqs\\_2-.pdf](https://www.iicsa.org.uk/key-documents/303/view/core-participant-status-faqs_2-.pdf) at paragraph 8.

- b. In relation to Issue 3 (the Incident at Sea), Mr Richardson: (i) was Superintendent Crime and second officer on call over the relevant weekend; (ii) was the line manager for DCI Field, who was the Senior Investigating Officer for the incident; (iii) was a member of the Gold Command Group convened following the incident; and (iv) attended several meetings about the incident, including with other CPs (the Attorney General and the Acting Governor). Mr Richardson also made various notes in respect of the incident which he cannot currently access as he has since retired from the RGP.
  - c. Issue 4 (the HMIC Report): Mr Richardson was “*fully engaged*” in preparing for the 2019 HMICFRS inspection, attended planning meetings, was interviewed during the inspection, and was involved in remedial work following the inspection.
  - d. Issue 5 (the Conspiracy Investigation): Mr Richardson was the Senior Investigating Officer on this investigation from its inception, and therefore intimately involved in all stages of planning, evidence gathering and charging decisions. He also attended three meetings with Mr McGrail and the Attorney General, and continued the investigation after Mr McGrail’s retirement. Mr Richardson also discussed the incident with the DPP, including providing the DPP with the National Decision Making Account of the investigation.
17. Mr Richardson may also be in a position to provide insight on Issue 7 (the Alcaidesa Claims), subject to him being able to review contemporaneous evidence.
18. I consider that the Inquiry would benefit from Mr Richardson being able to participate as a CP, rather than merely as a witness. In particular, it will assist the Inquiry if his legal representatives are able to address the Inquiry and contribute to lines of questioning about the evidence on Issue 5, which is likely to include complex and lengthy operational material.
19. Although Mr Richardson has not raised the Third Consideration in his application, I must also have regard to whether: “*the person may be subject to significant criticism during the Inquiry proceedings or in its final or any interim report*”. Given Mr Richardson’s close involvement in the issues outlined above – and in particular the execution of the search warrants in the Conspiracy Investigation, which is emerging as a fundamental issue – it seems that Mr Richardson could be the subject of significant criticism by the Government Parties in the course of the Inquiry proceedings. The Inquiry may then be required to decide whether those actions were worthy of criticism. The interests of fairness require that Mr Richardson have adequate

participatory rights to respond to any criticism. I make this observation without any prejudgment of the Inquiry's findings as to Mr Richardson's conduct.

20. As with the RGP, Mr Richardson is in a position to give evidence on a wide range of the provisional issues, but I understand he requires access from the RGP records to facilitate this. Therefore, I do not consider that his CP status should be limited to a particular issue or issues.

21. I therefore grant CP status to Mr Richardson.

**Sir Peter Openshaw, DL**

20 October 2022