

**Royal Commission  
into the Management of Police Informants**

**STATEMENT OF NEIL JOHN PATERSON APM**

I, Neil John Paterson APM, Assistant Commissioner, Intelligence and Covert Support Command, Victoria Police say as follows:

- 1 I am a sworn member of Victoria Police currently holding the rank of Assistant Commissioner. I have previously made a statement to the Royal Commission dated 22 March 2019 (**22 March Statement**).<sup>1</sup> My professional background is set out in paragraphs 1.2 to 1.17 of my 22 March Statement.
- 2 This statement responds to a number of questions and 'matters to be clarified' set out in a table in Attachment B to a letter from the Royal Commission to Corrs Chambers Westgarth dated 11 October 2019. This statement will be produced to the Royal Commission, as set out in the letter from Corrs Chambers Westgarth to the Royal Commission dated 2 March 2020.
- 3 I am authorised to make this statement on behalf of Victoria Police.
- 4 I make this statement from my own knowledge except where otherwise stated.

**Background**

- 5 The Victoria Police Manual — Human Sources (**HS Policy**) is the most recent and thorough policy document relating to Victoria Police's use of human sources. It constitutes part of the development of policies relevant to human sources in Victoria Police since the first policy was published in 1986.
- 6 Policy development within Victoria Police is a continual process where current policies are frequently reviewed and updated as necessary. This is particularly the case with the development of policies relating to the use of human sources. The development of human source policies is set out in paragraphs 4.6 to 4.103 of my 22 March Statement.
- 7 Victoria Police is currently reviewing the HS Policy and drafting an updated VPM Human Sources (**Updated HS Policy**) to replace the current HS Policy. The Updated HS Policy is in advanced stages of drafting — it is intended that it will be implemented in around early 2020. Many of the impending changes in the Updated HS Policy will reflect Victoria Police's ongoing responsiveness to the issues being considered by the Royal Commission and commitment to continual policy improvement. Some of these changes will likely impact upon my responses in this statement.
- 8 Where possible, notwithstanding that the Updated HS Policy is yet to be finalised and implemented, I outline in this statement where, in my opinion, my responses would likely be different under the Updated HS Policy.

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<sup>1</sup> VPL.0014.0005.0001.

- 9 I further note that Victoria Police is conducting an organisation-wide review of its policies with respect to disclosure obligations. The Updated HS Policy also contains further guidance to members concerning their disclosure obligations.

### Human sources that fall within the 'positive obligation' definition

#### Question 1(a)

- 10 'Positive obligation', as defined in section 1.20, includes any human source who is bound by legislation or rules of their profession (which may include legal/professional privilege or a Hippocratic oath), irrespective of the information that the human source provides. Considerations relating to human sources with obligations of legal or professional privilege and ethical obligations regarding confidentiality are set out in section 4.6.
- 11 By way of background, the HS Policy introduced the term 'positive obligation' into Victoria Police's human source policy documentation. Despite defining 'positive obligation' in section 1.20 of the HS Policy, the term has not been well understood. As I explain in my responses below, the Updated HS Policy will not feature the term positive obligation.

#### Question 1(b)

- 12 The professions that fall within the definition of the term positive obligation are outlined in section 4.6. These professions include lawyers, doctors, parliamentarians, court officials, journalists and priests (**Kellam Occupations**). The Kellam Occupations are professions that are expressly identified in the Kellam Report and the Comrie Report.
- 13 As I outline in my response to question 1(c), there are also circumstances in which a person in a profession other than a Kellam Occupation falls within the positive obligation definition.

#### Question 1(c)

- 14 The meaning of positive obligation is set out in section 1.20. Section 1.20 provides two sets of circumstances in which a human source has a 'positive obligation':
- (a) the human source is bound by legislation or rules arising out of their Kellam Occupation (**First Limb**); or
  - (b) the human source is a person from whom Victoria Police would not normally accept information in a human source relationship, however the information has such high community impact that it is proportionate and necessary to be utilised (**Second Limb**).
- 15 In the First Limb the positive obligation refers to the human source's positive obligation of confidentiality or privilege. On the other hand, as I explain in my response to question 1(f), in the context of the Second Limb, Victoria Police may consider that there is a 'positive obligation' on Victoria Police to act on the information having taken into account proportionality and necessity. This distinction may have contributed to confusion regarding the term positive obligation.
- 16 A human source has a positive obligation if the person falls within the First Limb or the Second Limb. The Intelligence and Covert Support Command Ethics Committee (**ICSCEC**) ultimately determines whether a human source has a positive obligation.

- 17 Furthermore, as I outline in my response to question 1(f), a person who has a connection to a person in a Kellam Occupation in circumstances where they are likely to receive legally privileged or confidential information would also fall within the Second Limb.

Question 1(d)

- 18 The Victoria Police members involved in the registration of a human source are the handler, controller, Officer in Charge (**OIC**), Local Source Registrar (**LSR**), Central Source Registrar (**CSR**) and members of the ICSCEC. Any of these members may determine that a human source has a positive obligation.
- 19 Pursuant to section 1.20, any matter concerning a human source with a positive obligation must be referred to the ICSCEC, which ultimately determines or reviews (amongst other things) whether a human source falls within the positive obligation definition.

Question 1(e)

- 20 The HS Policy sets out the required training for members of the handling team. Members of the handling team that manage human sources with relatively higher risk ratings, and members who manage human sources more frequently, typically complete additional training.
- 21 The CSR (currently the Detective Superintendent of the Covert Services Division of ICSC) holds the rank of Superintendent and has experience in both risk management and human source management. Whilst there is no current training specifically dedicated to the role of CSR under the HS Policy, the CSR is informed by attendance at other human source management related meetings and conferences. The current CSR has also undertaken complementary training in Integrated Risk Management and Ethics in Covert Law Enforcement. The current CSR has also undertaken 'authorised officer' training in the UK in December 2019 in the context of the human source requirements under the *Regulation of Investigatory Powers Act 2000* (UK) and the UK *Code of Practice — Human Sources*.
- 22 Members of the ICSCEC receive training on the *Charter of Human Rights and Responsibilities Act 2006* (Vic) concerning relevant human rights considerations in exercising their decision making responsibilities.
- 23 As noted above, Victoria Police has identified that past training have not sufficiently dealt with the term positive obligation. The Updated HS Policy will:
- (a) not feature the term positive obligation;
  - (b) provide stronger direction as to the meaning of 'legal privilege', 'confidentiality considerations' and 'disclosure obligations';
  - (c) articulate more specifically the types of people that currently fall under the Second Limb of positive obligation that must be referred to the ICSCEC; and
  - (d) provide examples of circumstances in which information is likely to be subject to legal obligations of privilege or confidentiality.
- 24 Victoria Police will conduct new training to accompany the implementation of the Updated HS Policy. This training will be targeted at members of the handling team and the HSMU.

Question 1(f)

- 25 A human source who is not a person bound by legislation or professional rules but who may access or provide confidential or legally privileged information will fall within the Second Limb of the positive obligation category. Therefore, the registration application must be referred to the ICSECEC, which will take into account, as part of its consideration of whether the information is of such high community impact that it is proportionate and necessary to be utilised, the likelihood that the information is subject to issues of privilege or confidentiality. The other matters considered by the ICSECEC are outlined in my response to questions 1(i) and 1(j).
- 26 Furthermore, legal or professional privilege issues are also considered in the Second Limb of the definition of positive obligation. Where a potential human source falls within the positive obligation definition, then the matter must progress via the CSR to the ICSECEC for a decision. In considering the matter, the ICSECEC takes into account whether the information is likely to be subject to issues of privilege or confidentiality. Handlers and controllers are also responsible for identifying whether information that they are receiving may be privileged.
- 27 As noted in my response to question 1(a), the Second Limb of the definition of positive obligation is not well understood and will not be featured in the Updated HS Policy. The Updated HS Policy will specifically address the situation of human sources that have a connection to an individual in a Kellam Occupation, by imposing specific requirements in the registration application approval process in respect of human sources that:
- (a) previously worked in a Kellam Occupation;
  - (b) are likely to receive privileged or confidential information from a person who is in a Kellam Occupation; and/or
  - (c) are in a similar occupation or role where they are likely to receive legally privileged or confidential information.

Question 1(g)

- 28 Given my response to question 1(f), my response to this question is not required.

Question 1(h)

- 29 As a result of the ongoing review of the HS Policy, it has been identified that whilst there are a number of reasons that Victoria Police would not normally accept information, these reasons are not expressly set out in the HS Policy. Accordingly, the Updated HS Policy will expressly outline these circumstances.

Questions 1(i) and (j)

- 30 Questions 1(i) and 1(j) relate to the ICSECEC's assessment of whether a human source falls within the Second Limb of the definition of positive obligation. Consideration of whether information is of 'such high community impact that it is proportionate and necessary to be utilised' is one single assessment undertaken by the ICSECEC.
- 31 Matters that the ICSECEC may consider in undertaking its assessment include:
- (a) the seriousness of the offence to which the information relates, including the number of potential victims, the involvement of violence, victimisation of vulnerable people etc;

- (b) any time-critical factor relating to the information that, if not acted upon, may mean that the opportunity to arrest, seize or disrupt an offender, potential offender or other danger has passed;
- (c) the likelihood of investigators obtaining the same information through other, less intrusive, investigatory means;
- (d) the potential to obtain the information from another human source that is not the subject of a 'positive obligation';
- (e) the likelihood that the information to be provided by the human source is subject to issues of privilege or confidentiality;
- (f) the impact on the human rights of any individuals or the community if the information is utilised or not utilised; and
- (g) any other legal or ethical considerations the ICSEEC considers relevant.

Question 2(a)

32 Yes. I refer to my response to question 1(b).

Question 2(b)

33 Given my response to question 2(a) my response to this question is not required.

Question 2(c)

34 The professions in the first bullet point of section 4.6 are intended to provide examples of Kellam Occupations. As I note in my response to question 1(b), the Kellam Occupations comprise the First Limb of the definition of positive obligation. The First Limb of 'positive obligation' in section 1.20 is defined by reference to the existence of relevant rules that may give rise to duties of confidentiality or privilege (for example, legal professional privilege and the medical Hippocratic oath). Section 4.6 provides examples of occupations that are bound by rules of confidentiality or privilege, and are therefore Kellam Occupations. The occupations listed in section 4.6 are not intended to be an exhaustive list, as indicated by the use of 'e.g.' and 'etc'.

**Registration of sources with 'positive obligations' and human sources where there are professional privilege considerations**

Question 3(a)

35 The OIC is required to review the human source registration application and risk assessment prior to delivery of the acknowledgement of responsibilities (AOR) to the potential human source.

Question 3(b)

36 The adequacy of the AOR is reviewed by each of the controller, OIC, LSR, Central Source Registrar (CSR) HSMU, and the ICSEEC (if applicable) as part of their assessment of a human source registration application. At any one of these reviews, any deficiency in the AOR can be identified and directions can be made for specific amendments to be made to the AOR.

37 If an AOR has been delivered to the human source prior to the registration application being formally approved, and during the reviews conducted by the OIC, LSR, HSMU, CSR, or ICSEEC they impose a further condition to the AOR, then the

amended AOR must be re-delivered to the human source in accordance with the HS Policy.

- 38 Sections 1.7 and 1.17 also provide that the controller must, at a minimum, review the AOR on a monthly basis as part of the ongoing risk assessment review process. If a controller forms a view that the conditions of an AOR are insufficient, the controller must consider and impose additional conditions on the AOR.

Question 4(a)

- 39 As outlined in my responses to questions 1(b), 1(c) and 1(d), individuals to whom professional privilege considerations apply fall within the definition of positive obligation. The processes and requirements with respect to registration of all human sources with a positive obligation are the same.
- 40 In this context, the requirements of section 1.20 are to be read in conjunction with the requirements of section 4.6.

Question 4(b)

- 41 Given my response to question 4(a) my response to this question is not required.

Question 5(a)

- 42 The positive obligation reliance, as provided in section 1.20, should not be interpreted as approval of the use of a source that falls into the positive obligation definition.
- 43 The positive obligation reliance refers to the fact that under the HS Policy, the approval of the registration application of any human source that fits within the definition of positive obligation must be for a specific purpose. In order to approve a human source registration application of a positive obligation human source, the ICSEEC must specify that the approval is for a specific purpose (and provide details of that specific purpose), and that the approval of the registration application lapses upon fulfilment of that purpose.

Question 5(b)

- 44 The appropriateness of any particular specific purpose is determined by the ICSEEC on a case by case basis.

Question 5(c)

- 45 In considering the type of specific purpose or relevant timeframe in which the specific purpose must be achieved, the ICSEEC has regard to the community impact of the information to be provided by the potential human source and the proportionality and necessity of utilising that information. In having regard to these factors the ICSEEC will consider the matters outlined in paragraph 31.

Question 5(d)

- 46 Specific purposes imposed by the ICSEEC are continually monitored by the HSMU, the LSR and the ICSEEC.
- 47 Pursuant to section 1.20, human sources to whom positive obligations apply are deemed to be high risk human sources under the HS Policy and must, unless exceptional circumstances exist (as outlined in section 4.4), be managed by a dedicated unit. The dedicated unit is subject to intrusive supervision by their

Inspector and Superintendent who, in accordance with section 1.14 would also monitor the fulfilment of human sources' specific purposes.

- 48 Pursuant to section 4.3, the specific purpose must be clearly articulated on a human source's risk assessment on the Interpose human source module. Pursuant to section 4.4, the LSR conducts monthly inspections of high risk human sources' risk assessments, including specific purposes.
- 49 The Updated HS Policy will provide further clarification regarding the role of the ICSCEC in providing ongoing oversight and monitoring of these human sources.

Question 6(a)

- 50 Use of the words 'determine' and 'review' in section 1.20 is not intended to refer to two alternative circumstances in which the ICSCEC will consider a decision made by the CSR — the ICSCEC ultimately decides all matters referred to it concerning approval of human source registration applications. The Updated HS Policy will remove the words 'determine' and 'review' from the Policy.
- 51 As a matter of practice, at a meeting of the ICSCEC, the CSR will ordinarily provide a verbal briefing to the ICSCEC with respect to the circumstances surrounding the human source's registration application. In doing so, the CSR may, if he or she thinks appropriate, provide recommendations concerning appropriate conditions for the human source's specific purpose and AOR. The CSR may also recommend that the ICSCEC obtain legal advice in considering the registration application.
- 52 By use of the word 'reviews' the HS Policy is referring to the fact that where the CSR has made a recommendation to the ICSCEC, the ICSCEC will review the CSR's recommendation in determining whether or not to approve a registration application.
- 53 By use of the word 'determines', the HS Policy is referring to situations where the CSR has not provided recommendations to the ICSCEC, in which case the ICSCEC will determine the outcome of the registration application in the absence of the CSR's recommendations.

Question 6(b)

- 54 The ICSCEC can overturn the CSR's approval of a human source registration application.

Question 7(a)

- 55 The independent Superintendent member of the ICSCEC is a Victoria Police member of Superintendent rank from a different Command or Region from any matter being considered by the ICSCEC and who has completed the training outlined in paragraph 22. The independent Superintendent may be any member of Superintendent rank that fits these criteria, and who is available for the particular meeting of the ICSCEC.

Question 7(b)

- 56 The Legal Services Department representative is currently the Executive Director, Legal Services.
- 57 If the Executive Director, Legal Services is not able to attend a meeting of the ICSCEC, their delegate must be legally qualified.

Question 7(c)

- 58 The Legal Services Department representative's role as a non-voting member may be a reflection of the intention that he or she would have an advisory role to the ICSCEC in respect of matters including:
- (a) interpretation of obligations under legislation including the *Charter of Human Rights and Responsibilities Act 2006* and the *Crimes (Controlled Operations) Act*;
  - (b) interpretation of any legal advice obtained in respect of the human source registration application;
  - (c) appropriate drafting of the AOR;
  - (d) appropriateness of the specific purpose
  - (e) identification and assessment of the likelihood that the information to be provided by the human source is subject to issues of privilege or confidentiality; and
  - (f) any other matter requested by the ICSCEC.
- 59 As a matter of practice, the ICSCEC does not currently convene for meetings in the absence of the Legal Services Department Representative. The Updated HS Policy will specify that the Legal Services Department representative is a full voting member of the ICSCEC and that the ICSCEC will not quorate in the absence of the Legal Services Department representative.

### **Managing high risk sources**

#### Question 8(a)

- 60 Employment of a partial or full sterile corridor is always preferable to having no sterile corridor in place.

#### Question 8(b)

- 61 Where possible, high risk sources are managed in a full rather than partial sterile corridor.
- 62 Pursuant to section 1.20, a human source that has a positive obligation will be deemed a high risk human source. Pursuant to section 1.20, human sources with a positive obligation are rated as high risk by the ICSCEC, and consequently, pursuant to section 4.4 a sterile corridor is required in their management.

#### Question 8(c)

- 63 In my experience, provided that a sterile corridor (either partial or full) is appropriately established, the operation of the sterile corridor does not require extensive supervision. This is because, typically, there will be very little or no contact between members of the handling team and relevant investigators.
- 64 Section 4.4 of the HS Policy provides that, unless exceptional circumstances exist (as outlined in my response to question 10(a) below), a dedicated unit is responsible for handling high risk human sources. The dedicated unit is never responsible for the investigation of information received from a human source. Consequently, the dedicated unit is principally responsible for ensuring that the human source is managed in a sterile corridor.
- 65 Nonetheless, the HSMU, in consultation with the CSR has oversight of all active high risk human source registrations.



Question 9(a)

66 I refer to my response to question 8(a).

Question 10(a)

67 My response to this question is subject to an unresolved PII claim.

Question 10(b)

68 My response to this question is subject to an unresolved PII claim.

**Management of confidential or privileged information**Question 11(a)

69 Training is provided to assist members to identify information or intelligence that may be subject to obligations of privilege or confidentiality.

70 Pursuant to section 1.4, the CSR may determine that some or all members of a handling team require specific training, taking into account:

- (a) the level of overall risk involvement in the management of the human source;
- (b) previous training undertaken by the handling team managing the human source; and/or
- (c) any other relevant factors considered necessary in determining if specific training is required.

Question 11(b)

71 Section 4.6 provides the following guidance for members in circumstances where a human source who is in a position to which confidentiality obligations or professional privilege applies, voluntarily offers information that is or appears to be in breach of privilege:

- (a) the Interpose record is to be updated with a notation that information appears to be in breach of professional privilege;
- (b) the information is not to be acted upon or disseminated further;
- (c) the HSMU must be advised at the earliest opportunity;
- (d) the HSMU must obtain legal advice from Legal Services Department regarding the use of information or intelligence obtained which may breach a professional obligation;
- (e) the HSMU will advise the CSR;
- (f) if there is a potential for a breach of legal professional privilege then the matter is to be referred to the ICSEEC by the CSR; and
- (g) the ICSEEC will make a decision as to how the information and the human source will be treated.

Question 12(a)

72 Whilst the seventh bullet point of section 4.6 refers only to "handlers", this section is intended to apply to all members of the handling team (as defined in section 1.4). The Updated HS Policy will specify that this requirement applies to all members of the handling team.

Question 12(b)(i) and (ii)

- 73 Members are provided training to identify information or intelligence that may be subject to obligations of privilege or confidentiality, or that would cause a human source to breach his or her obligations.

Question 13(a)

- 74 The ICSCEC may take into account matters including:
- (a) any legal advice obtained in under the HS Policy in relation to the human source;
  - (b) obligations under the *Charter of Human Rights and Responsibilities Act 2006*; and
  - (c) matters outlined in my response to questions 1(i) and 1(j).

Question 13(b)

- 75 The recommendations of the ICSCEC are binding.
- 76 As noted in my response to question 6(a), the Updated HS Policy will provide that the ICSCEC makes binding decisions in relation to all matters referred to it under the Policy.

**Human Source Governance Committee**Questions 14(a), (b) and (c)

- 77 The Human Source Governance Committee has no role, function or decision-making powers in relation to human sources with positive obligations, high-risk human sources or other human sources who may provide information that is or appears to be in breach of privilege or confidentiality obligations.
- 78 The role of the Human Source Governance Committee, pursuant to its terms of reference, is to provide strategic advice, feedback, and guidance in the management of human sources, compliance with policy, ongoing continuous policy improvement, service delivery, training, statistical analysis, evaluation, audit and reporting.
- 79 The Updated HS Policy will rename this committee as the Human Source Advisory Committee to better reflect its role and function.

**Reporting and recording contact**Question 15(a)

- 80 The VPM — Complaints and Discipline and the VPM — Protected Disclosures impose further obligations on all Victoria Police members who receive information in relation to police corruption.
- 81 All members are also bound by their obligations (to the extent applicable) under the *Victoria Police Act 2013 (Vic)*.

Question 15(b)

- 82 Whilst section 7.3 refers only to 'corruption', it is intended that members of the handling team should report all information relating to both corruption and misconduct.
- 83 The Updated HS Policy will refer to both 'corruption' and 'misconduct' in this context.

## Request for documents — international research

### Question 16

- 84 On 4 October 2019, the CSR provided a PowerPoint presentation titled “Human Source Management – Findings from Feb 19 overseas research tour”. Some of the information in the presentation was drawn from information that I collated as a result of the international research into the management of human sources I undertook in February and March 2019.
- 85 This presentation did not expand on my 22 March Statement as it relates to international research, but rather guided the discussion on the day.

### Question 17

- 86 As I note in paragraph 7, Victoria Police is undertaking a review of the HS Policy, with a view to implementing the Updated HS Policy in early 2020. Victoria Police can provide further information to the Royal Commission at a later time when the Updated HS Policy is finalised and implemented.

## Compliance Processes

### Question 18(a)

- 87 Section 16 of the HS Policy provides that:
- “Controllers must complete a monthly review of the source relationship, risk assessment and information gained.
  - Controllers and their OIC must record a summary of activity in the source’s Interpose file
  - OICs must review active registrations every three months.
  - Source Contract Reports must be controller reviewed within seven days.
  - In cases of high-risk sources, the LSR, as a component of the monthly inspection process, must endorse current risk assessments to reflect that no new risk have arisen that would require a revised risk assessment being conducted and that the current risk assessment remains fir for purpose. The LSR must also document the checks and inquiries undertaken in order to make such a determination.
  - The LSR must conduct an audit of each source management file within their division at the time of deactivation. Each audit must cover procedural, ethical and value aspects of the registration.
  - The HSMU is to notify the LSR of:
    - source files that are dormant longer than the review periods stipulated in this policy.
    - risk assessments or AORs that re not provided/updated.
    - incidents that occur whereby a source is harmed as a result of their relationship with Victoria Police.
    - any high-risk sources that require monthly review and endorsement of the risk assessment.

- other management issues exist which should be brought to his/her attention.
  - Refer to the Workplace Inspections Manual for further details about conducting inspections and audits generally.”
- 88 In addition to the HS Policy requirements, any breach of the HS Policy that is considered as serious by any member would be reported to Professional Standards Command via a VP Form 918 (Complaint, Incident, Issue form).
- 89 Since 2018, the ICSC has conducted four audit and compliance measures relating to human source management:
- (a) production of compliance spreadsheets;
  - (b) review of all high risk human source registrations;
  - (c) mandatory completion of the ‘occupation’ field in Interpose human source module; and
  - (d) upgrade to the Interpose human source module.

*Compliance spreadsheets*

- 90 Since February 2017, HSMU has compiled spreadsheets containing a number of fields outlining the compliance status of human source registrations under the HS Policy. The process of preparing the compliance spreadsheets has been a labour-intensive manual process because the Interpose human source module has not had the functionality to compile or export human source file date. As a result, the process of producing compliance spreadsheets has required members of the HSMU to review each human source record in Interpose and then record the relevant information into the spreadsheet before providing the spreadsheet to the relevant LSR for their review.
- 91 The format and level of detail included in the compliance spreadsheets have increased over time.

*Review of all high risk human source registrations*

- 92 In addition to the auditing measures described above, the Compliance and Risk Management Unit (**CaRMU**) within the ICSC currently conducts rolling 6-monthly audits of all high risk human source registrations. This unit was officially formed on 1 January 2017 and consists of three sworn police members.
- 93 Since established, CaRMU has undertaken three audits, during May 2017, November 2018 and August 2019. The CaRMU audits did not involve any human source that was engaged in a Kellam Occupation, nor any human source that provided information subject to a legal obligation of privilege or confidentiality.

*Mandatory completion of the ‘occupation’ field in Interpose*

- 94 On 21 February 2019, an instruction was issued to LSRs that no human source registration should be approved unless the ‘occupation’ field was completed on the Interpose human source module. This instruction specified that:
- (a) all human source registration applications “must include occupation details”;
  - (b) “entries such as ‘N/K’ [not known] or ‘N/A’ [not applicable] will not be accepted”; and

- (c) that registration applications would not be approved “until this field is satisfactorily completed and professional privilege is discounted”.

*Upgrade to the Interpose human source module*

- 95 The Interpose human source module was upgraded on 26 October 2019. In this upgrade an automated email alert to the HSMU is generated in certain circumstances. Upon the commencement of a human source registration, the member completing the process must answer an initial question relating to legal privilege and confidentiality prior to entering any information into the Interpose human source module. If the answer to that question is ‘yes’ then an automated email alert is generated to the HSMU. In addition a further message appears on the screen of the user advising that the registration must be discussed with the HSMU.
- 96 In the 26 October 2019 upgrade to the Interpose human source module, the fields of ‘occupation’ and ‘employer’ became mandatory fields to complete during a human source registration application. Without completion of these fields, a member seeking to register a human source cannot progress through automated completion of the Interpose registration process.
- 97 Interpose also has the capability for a member to create an alert that can be generated in certain circumstances. An alert has been created for where a Kellam Occupation (or related occupation) is entered into the ‘occupation’ field of the Interpose human source module. If this occurs an alert is also generated to the HSMU.
- 98 In addition, the user is asked two questions after completing the occupation and employer fields. The questions relate to whether the occupation has an obligation or privilege or confidentiality or whether the information is subject to such an obligation. If the answer to either question is ‘yes’ then an automated email is also generated to the HSMU. These new features in Interpose are additional ways in which the HSMU actively monitors all new registrations of human sources. In turn, this allows scrutiny over the registration process so that appropriate matters are identified and reported to the CSR and ICSCEC.
- 99 As part of the upgrade to the Interpose human source module, every member of a handling team now has the ability to use Interpose to generate compliance spreadsheets relating to all of the human sources under his or her line control. The automatically generated report contains substantially the same information as the manually compiled compliance spreadsheets described in paragraph 90 above.
- 100 Further, as part of the upgrade to the Interpose human source module, a new section enables the recording of specific information relating to either a human source or information to which a legal obligation of privilege or confidentiality is attached. The section also captures decisions of the ICSCEC.

Question 18(b)

- 101 A partial response to this question has been provided to the Royal Commission in response to Notice to Produce 296.
- 102 Furthermore, in June 2018, HSMU conducted an audit of all active human source registrations. As outlined below, in responding to the audit Victoria Police identified and responded to instances of non-compliance with the HS Policy.

- 103 In June 2018, subsequent to the issue of the current HS Policy, I requested that the HSMU undertake a compliance audit of all active human source records with a focus on the following 4 areas:
- (a) requirement for a handler to conduct regular face-to-face meetings with the human source (section 1.5);
  - (b) requirement to complete an AOR (section 1.17);
  - (c) requirement to complete and update the risk assessment (section 4);
  - (d) requirement for a controller to review source contact reports within 7 days (section 1.7).
- 104 The compliance audit reviewed all active human source records and identified any instances of non-compliance. As a result of this audit, on 13 July 2018 I reported all identified instances of non-compliance to the Deputy Commissioner, Specialist Operations. On 17 July 2018 I met with the Deputy Commissioner, Specialist Operations and the Assistant Commissioner, Professional Standards Command (PSC) to brief them on the non-compliance issues identified. At this meeting it was agreed that the Assistant Commissioner PSC would brief the Independent Broad-based Anti-Corruption Commission (IBAC) on the non-compliance issue identified. The Assistant Commissioner PSC briefed IBAC on 23 July 2018.
- 105 On Friday 20 July 2018, I sent an email to all LSRs reminding them of the requirements under the HS Policy and informing them that a recent audit had identified issues with non-compliance with the HS Policy. I informed them that any human source file that had been identified as non-compliant had its registration status changed to 'Not Approved'. When a file is marked as Not Approved, no information reports can be disseminated as a result of the information obtained from the human source, pursuant to section 5.4.
- 106 Whilst I understand that any matter of non-compliance may be reported to PSC for investigation, the nature of the non-compliance was considered a practice issue. It was resolved that LSRs would benefit from further significant assistance from the HSMU rather than reporting of each issue of non-compliance as a breach of discipline. I understand that the Assistant Commissioner PSC briefed IBAC on this approach during his meeting on 23 July 2018.
- 107 Any human source whose file was non-compliant with the HS Policy was immediately marked as 'Not Approved' and the handler, controller and LSR were informed of the specific non-compliance issue for each human source. Each member of the handling team was asked to either bring the file into compliance with the HS Policy or to proceed to deactivate the human source in accordance with the HS Policy.

Questions 19(a), (b) and (c)

- 108 Prior to the upgrade to Interpose in October 2019, the Interpose human source module has not had the functionality to produce or extract any of the reports outlined in questions 19(a), (b) and (c). I understand that it would take a substantial allocation of resources to manually compile these reports using historical Interpose records.
- 109 In relation to the reports requested in question 19(a), I understand that Victoria Police may not hold the data necessary to produce these reports. Consequently, I believe that Victoria Police may not be able to produce these reports for the period before the Interpose human source module upgrade on 26 October 2019.

110 In relation to the reports requested in questions 19(b) and 19(c), Victoria Police would be required to extract and manually collate and analyse all data from each human source's Interpose record. This would be a substantial task which would require a considerable allocation of Victoria Police resources.

Question 20

111 The HSMU conducts a qualitative review on the risk assessments completed for all human sources, not just high risk human sources. If members of the HSMU identify a deficiency in the risk assessment, they will speak to the handling team outlining further requirements to be addressed.

112 For all high risk human sources, a dedicated unit will comprise the handling team in accordance with section 4.4 of the HS Policy. For a high risk source, none of the functions of the CSR can be delegated to the HSMU as they are for low or medium risk sources. In turn this means that the CSR will personally scrutinise the risk assessments of all high risk human sources.

**Request for documents — instances of non-compliance**

Question 21

113 A response to this question is provided at paragraphs 90 and 91.

Question 22

114 A response to this question has been provided to the Royal Commission in Victoria Police's response to Notice to Produce 296.

**SIGNED** by Neil John Paterson :

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Date: 05 MARCH 2020