

RM



# Home Office

Rt Hon Mike Penning MP  
Minister of State for Policing,  
Crime, Criminal Justice and Victims

2 Marsham Street,  
London SW1P 4DF  
[www.gov.uk/home-office](http://www.gov.uk/home-office)



Miss J Kearsley  
Area Coroner  
Manchester South  
Coroner's Court  
1 Mount Tabor Street  
Stockport  
SK1 3AG

29 JUN 2015

Your ref: JK/KN/02070-2009

*Dear Miss Kearsley*

## INQUEST INTO THE DEATH OF PAUL JOHN MCGUIGAN – REGULATION 28 REPORT

Thank you for your letter of 11 May to the Home Secretary about the tragic death of Paul John McGuigan, who was unlawfully killed by one of his close protection work colleagues in Iraq. I am replying as the Minister for Policing, Crime, Criminal Justice and Victims.

Your thorough report raises a number of important issues which touch on the work of a range of departments and agencies. The concerns which are directed towards the Home Office relate to the Notifiable Occupations Scheme (NOS) and to the type of criminal record certificate available in relation to those employed on private security contracts at home and abroad.

As you will know the events concerned took place in 2009. At that time the NOS was the mechanism through which information on the conviction of an individual working in a sensitive area could be disclosed by the police. The Home Secretary recognised that disclosure on conviction and only exceptionally on arrest could present a public protection risk and asked for a review. The review involved extensive consultation and was informed by legal advice focused on ensuring that any changes took proper account of proportionality and human rights considerations in reaching decisions on disclosure. In March 2015, the Home Secretary decided to withdraw the NOS in favour of a new police-led scheme which provides greater consistency across forces in the disclosure of information.

You are already aware of the new scheme, the Common Law Police Disclosure (CLPD) scheme, which is intended to serve the needs of public protection more effectively. It provides a framework for disclosure of information under police common law powers where the relevant Chief Officer considers there to be a risk to public safety. The new arrangements provide the police with greater flexibility in relation to what should be disclosed, to whom, and when. For example, information now goes directly to employers where the police consider that appropriate.

An individual applying for an SIA licence is eligible for a standard criminal record certificate from the Disclosure and Barring Service (DBS) under the legislative provisions in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

It is mainly posts requiring close and regular working with children or vulnerable adults that are eligible for an enhanced disclosure under The Police Act 1997 (Criminal Records) Regulations 2002. Roles covered by SIA licences do not fall into this category with one exception. Where an applicant for an SIA licence is required to handle prohibited weapons as part of a role inside the UK, section 5 of the Firearms Act 1968 applies and that individual will be eligible for an enhanced certificate.

You may be aware that the employment of security or close protection personnel for posts outside the United Kingdom is governed by an International Code of Conduct for Private Security Providers (which the UK joined as a founding member) setting out obligations for the providers, particularly with regard to international humanitarian law and human rights law. However, neither the SIA nor the Home Office has jurisdiction over the employment of security or close protection personnel for posts outside the United Kingdom.

Finally, you raise a concern in relation to the recording and sharing of the bail conditions imposed on Daniel Fitzwilliam in May 2009. Greater Manchester Police will need to respond specifically in relation to their handling of this. More generally, all bail conditions are recorded by the court. Where necessary, agencies are informed immediately of the nature of such conditions. The conditions and their practical effect should be made clear to the defendant.

Regards  
Mike

**RT HON MIKE PENNING MP**