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Rt Hon. Damian Hinds MP
Minister for Security and Borders
Home Office
2 Marsham Street
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By email only

Copied to: Rt Hon. Priti Patel MP, the Home Secretary; Rachel de Souza, Children's Commissioner for England

1 March 2022

Dear Minister,

I am the Chief Executive of JUSTICE, an all-party law reform and human rights organisation working to strengthen the justice system in the United Kingdom. I write to you alongside Harriet Wistrich, Founding Director of the Centre for Women's Justice, regarding our concerns with the consultation process for the draft revised Code of Practice to be issued pursuant to the Covert Human Intelligence Sources (Criminal Conduct) Act 2021 (the "**Act**").

We are concerned that due to the short consultation time frame, the Covid-19 situation, and the lack of a proactive effort to seek views of relevant organisations, the Home Office will not have benefited from a sufficiently broad range of expertise and views with respect to the Code of Practice.

The Consultation was published on 13th December 2021, with a deadline of 6th February 2022, a total of eight weeks. However, the opportunity for many relevant organisations to respond was restricted by two factors. First, much of the period took place through the festive

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President of Council **Baroness Kennedy of The Shaws QC** Chief Executive **Fiona Rutherford**

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break, where many staff understandably took annual leave and/or had their offices closed. Second, the Covid-19 situation resulting from the Omicron variant was highly disruptive to organisations with additional restrictions and high levels of absences due to the virus. The time available to respond was therefore naturally truncated.

This may have been manageable had the Consultation been proactively promoted. However, this does not appear to have been the case. Despite the critical relevance of the subject matter to our respective organisations, we did not receive any notification of its existence. We have also approached other relevant organisations, including those who briefed during the Act's passage through Parliament, victims' groups and children's rights organisations and representatives. All were equally unaware of this Consultation.

The Code of Practice and the Act concern matters of immense importance – the authorisation of criminal activities, including potentially the most serious of crimes, with impunity. It requires proper scrutiny and input, in particular from those who will be impacted by the measures. In light of the Government's [commitment](#) to improving the service and support victims receive and "*guarantee that victims are at the heart of the criminal justice system*", we would have expected the Home Office to proactively seek the views of the Victim's Commissioner on the draft Code of Practice. Likewise, with the safety of women and girls a [priority](#) for the Government, we would have expected the views of women's rights organisations, especially those women who suffered as a result of being deceived into relationships with undercover police officers, to have been asked to provide their views.

We refer to paragraph F of the Government's Consultation Principles 2018 which provides that consultations should "*consider the full range of people, business and voluntary bodies affected by the policy, and whether representative groups exist. Consider targeting specific groups if appropriate. Ensure they are aware of the consultation and can access it.*" It is clear that these principles have not been followed in this instance.

A robust consultation process is clearly essential, not only for its legitimacy, but also for creating well-evidenced and robust policy on a topic of immense importance. We are not confident that this can be said of this Consultation. Our concern is further compounded by the fact that a failure to seek the views of such organisations was raised as a [criticism](#) of previous consultations, including that of the previous Code of Practice.

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We therefore call on the Home Office to refrain from tabling the draft Code of Practice before Parliament, and instead urgently reopen the Consultation and afford it sufficient time to gather the appropriate range of views and expertise that it deserves. This would ensure that the Home Office is adhering to both the spirit, as well as the letter, of the Government's Consultation Principles. This means ensuring that every consultation receives the broadest level of engagement from relevant stakeholders, in an open and transparent manner.

We would welcome the opportunity to discuss this letter, and the Consultation, with you in more detail. We are copying this letter to Rt Hon. Priti Patel MP, the Home Secretary, and Rachel de Souza, the Children's Commissioner for England.

Yours sincerely,



Fiona Rutherford
Chief Executive
JUSTICE



Harriet Wistrich
Founding Director
Centre for Women's Justice

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