



Home Office

Home Secretary

2 Marsham Street
London SW1P 4DF
www.gov.uk/home-office

Barbara Jackson
Secretary, Orgreave Truth and Justice Campaign
Orgreavejustice@hotmail.com

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Dear Ms Jackson,

1. As you will be aware I have been considering the Orgreave Truth & Justice Campaign's (OTJC) submission on the need for an independent inquiry or investigation relating to the policing of the events at Orgreave Coking Plant on 18 June 1984. Over the summer I have considered very carefully the arguments and evidence contained in that submission along with open-source material relating to the events at Orgreave. As part of that process I met you and other campaigners on 13 September to hear your arguments in person, and I have now come to a decision on your request that the events of the 18 June 1984 be reviewed.
2. This is a very serious and sensitive issue which I appreciate has been the cause of much hurt and distress to those affected by the events which took place that day. I was struck in particular by the sincere and heartfelt statements provided to me by the OTJC and former miners present that day about the effect that these events have had on them. Although I intend to make a Written Ministerial Statement to the House, I wanted to inform you of my decision beforehand and in greater detail.
3. Both I and my predecessor have taken the time to understand fully the basis of the concerns raised in relation to the events at Orgreave, and what the OTJC hope to achieve through a review of those events. I am very grateful to both you and your fellow campaigners for taking the time to meet with me and provide additional information to help inform my decision. I have very carefully considered each of the points you have raised with me both in writing and when we met.
4. Having done so, I have reached the conclusion that a review or inquiry is not required to allay public concern in relation to these events. Accordingly, and for the reasons set out in this letter, considering them both individually and collectively, I have decided not to establish such an inquiry or review. I am not persuaded that the case has been made for establishing any review or investigation into the events at Orgreave.

5. I have considered a range of options including a formal statutory inquiry. As you will be aware, Parliament has determined, by section 1 of the Inquiries Act 2005, that the decision whether to order an inquiry should be that of the Minister. The decision not to order an inquiry into the events at Orgreave was made by me personally and in accordance with the Ministerial Code, after appropriate consultation at the highest levels. In so doing I have noted the following factors.
6. Any review seeking now to investigate what occurred on the day in question, would undoubtedly be hampered by the passage of time which would create real difficulties. This was a complex event involving hundreds of people. Some of those involved will now have passed away. Others will have difficulty recalling precisely what occurred. In these circumstances a review would face obvious difficulties trying to establish what happened, should there be a conflict of evidence. Although I recognise there is a desire on the part of the OTJC to establish what happened, the passage of the years makes this difficult, absent a lengthy, costly and complex investigation.
7. In relation to the question of accountability, it is to be noted that the vast majority of individuals whose conduct might be examined in a review or inquiry are no longer employed by the police. In any event, an inquiry would not be permitted to determine civil or criminal liability (section 2 of the Inquiries Act 2005). The IPCC's consideration of the events at Orgreave took approximately two years. The IPCC made clear the difficulties of ascertaining precisely what occurred given the complexity of the incident and the passage of time, in the absence of lengthy and detailed public inquiry.
8. This highlights that we are considering here events from over 30 years ago. In the years which have passed since 1984 there have been fundamental and wholesale changes to the way in which the police work. One of my key concerns as Home Secretary is to ensure there is a policing system which works effectively and fairly. A paramount concern for me reviewing this case has been the question of whether there are lessons for today's policing which need to be learned.
9. I am satisfied that policing today is now very different from how it was in 1984 - at the political, legislative and operational levels. The same is true also for the wider criminal justice system, with the introduction of independent CPS prosecutors and the statutory requirements on the police to investigate all lines of inquiry and to disclose material that might assist the defence. I am of the view that in light of these reforms and changes there would be very few, if any, lessons for the policing system today to be gleaned from reviewing the events and practices of 1984.
10. OTJC were invited to identify in their submissions specifically which aspects of the policing at Orgreave remain a matter of concern because they are unchanged in today's policing. The appendix to the submission helpfully sets out a number of matters. However, I do not consider that these matters provide sufficient basis to justify an inquiry.

11. Looking in more detail at the reforms and changes since 1984, I have noted the following:

(a) There have been significant changes to public order laws and policing practice. The Public Order Act 1986 brought clarity and certainty in the field of public order. It is clear the operational delivery and practice of public order policing has changed dramatically from the position prevailing in 1984. In the light of court judgments and increased police professionalism tactics have also been reviewed and altered several times since then. Those reviews and judgments are now reflected in authorised professional practice published on the College of Policing website;

(b) The Police & Criminal Evidence Act (PACE) has vastly improved the way police investigations and powers operate, providing a statutory framework for stop and search, arrest, the detention and questioning of suspects as well as powers of entry, search and seizure. Detailed codes of practice reinforce the Act. The protections provided by PACE were singularly lacking at the time of Orgreave;

(c) The creation of the Crown Prosecution Service in 1986 has fundamentally altered, for the better, the prosecution of offences. We no longer have *ad hoc* prosecution arrangements across the country whereby prosecutions were conducted by the police or private firms of solicitors. The CPS acts independently of both the police and Government, acting within the framework of the Code for Crown Prosecutors. Unlike the position in 1984, a charge now will only be brought if there is sufficient evidence to provide a realistic prospect of conviction and if a prosecution is required in the public interest. The CPS determines the level of charge (regardless of the offence for which the individual was arrested); the CPS handles disclosure; and it is the CPS which makes decisions as to the conduct of a case. This provides a far greater level of protection for defendants and scrutiny of police actions than was the case in the early 1980s;

(d) At the time of Orgreave there were few rules relating to the disclosure of unused material (material gathered by the police but not used in evidence). Disclosure was governed by the common law with a presumption unused material should not be disclosed to the court or defence. This meant exculpatory material in the hands of the police (for example, a witness statement suggesting the defendant had not been present at the scene of a fight) would not, as a matter of course, be revealed. Often not even the prosecutor would be aware of the existence of such material and even if he was there was no statutory duty to disclose it. That position has now changed by the introduction of a statutory disclosure regime which has led to an improved and more open system of disclosure with greater judicial oversight. The Orgreave prosecutions did not benefit from such a process;

(e) There is now strengthened external scrutiny of the police service with an Inspectorate of Constabulary whose reviews provide greater transparency to the public. Measures in the Policing and Crime Bill, currently before Parliament, will further strengthen the Inspectorate's autonomy and flexibility

to respond to emerging risks and concerns. The inspectorate will be given further powers to ensure it remains able to inspect the totality of policing. Police and Crime Commissioners will be given a new duty to respond publicly to all HMIC recommendations within 56 days of a report's publication, ensuring that the public are fully aware not only of the problems in their local force but also what is proposed to address them;

(f) The introduction of external scrutiny of complaints against the police with the creation in 1985 of the Police Complaints Authority (PCA) which was replaced in 2004 by the Independent Police Complaints Commission (IPCC). The IPCC is a far stronger and more effective body than its predecessor and legislation currently going through Parliament will further strengthen it. The Government is ensuring the IPCC has increased capacity, funding and powers to investigate all serious and sensitive matters involving the police. The whole structure of police complaints has moved on considerably from where it was in 1984-85;

(g) We now have a statutory Code of Ethics (laid before Parliament in 2014) and which sets out and defines the exemplary standards of behaviour for everyone who works in policing. The Code sets out the behaviour and principles by which the police across England and Wales are expected to be guided and undertake their duties. This ensures consistent standards, principles and values, including those of authority, respect and courtesy;

(h) And finally, the introduction of directly elected Police and Crime Commissioners has given the public a clear voice in shaping local policing priorities - with improved accountability of police leadership. PCCs replaced the previous system of unelected, unaccountable, police authorities. Unlike PCCs these authorities were virtually unknown to their local communities and provided little public scrutiny of their police forces. PCCs are therefore a marked improvement from the position in 1984.

12. I am also conscious that despite the forceful accounts and arguments provided by the campaigners and former miners present that day about the effect that these events have had on them, ultimately there were no deaths or wrongful convictions. This is a very important point when looking at the necessity or otherwise for a review into the events of over 30 years ago.

13. One of the key points that you made to me at the meeting which we had in September was your desire to uncover the truth and deal with the past so that policing in South Yorkshire can move forward. As part of this, you cited continuing concerns over police practices and tactics, as well as issues of community mistrust in the police and ongoing concerns as to police accountability. I agree that we need to ensure that policing has the right framework to protect the public while ensuring the public can trust in their competence and professionalism.

14. As I have mentioned, there have already been significant changes in the oversight of policing since 1984 at every level including major reforms to criminal procedure, changes to public order policing and practice, greater external scrutiny and greater local accountability. Each of these changes and improvements provide me with reassurance that the structure and framework for policing is significantly altered and improved since 1984. This is a very important consideration when looking at the necessity for any review and the public interest in holding one.
15. Whilst the policing system has been reformed substantially since the 1980s, I am aware of course that there have been discussions about South Yorkshire Police, and, specifically, its former leadership and current performance. The Police & Crime Commissioner and the recently appointed Chief Constable, with support from the institutions concerned with policing, including Her Majesty's Inspectorate of Constabulary, and the College of Policing, are acting to ensure the Force tackles the issues before it, to enable it to perform its vital role to the highest standards. The Government supports these efforts to ensure that South Yorkshire Police tackles the issues it faces and works to build trust with those it serves. Such efforts again provide reassurance to the public that problems are being addressed and action taken.
16. I have also considered the suggestion that malpractice in South Yorkshire Police after Orgreave fostered a culture of impunity in the force which ultimately led to police misconduct and misinformation after the tragic events at Hillsborough. The fact that 96 people died as a result of injuries suffered at Hillsborough was, of course, of the utmost gravity. There are ongoing criminal investigations arising from the publication of the Hillsborough Independent Panel report, and the IPCC is also working with the CPS to assess whether material relating to the policing of Orgreave is relevant to the Hillsborough criminal investigations. The intention is that the criminal investigations will provide files to the CPS by the turn of the year following which the CPS will make decisions about whether any criminal proceedings will be brought. I have considered the nexus between events at Hillsborough and Orgreave. Whilst Hillsborough also involved the South Yorkshire police, I do not see that police conduct and tactics at Orgreave led directly to the operational decisions at Hillsborough. In terms of police conduct in the aftermath, as noted above, there have been significant and powerful changes as to how the police now operate and the wider criminal justice system.
17. Whilst not the sole determining factor I am also conscious that any review – whether statutory or non-statutory - would entail an investigation of significant length and cost. When balanced against the overall benefit to be derived I do not believe that the balance favours the establishment of an inquiry or review.

18. I realise that you will be disappointed by this outcome. None of what I say here detracts from the valuable and helpful work which you and your colleagues have done in helping bring these issues to public attention. I understand that these events have had a profound and distressing effect on those concerned. However, I have carefully considered what could be achieved by a review of these events. I believe that the reforms and changes of the last thirty years negate the necessity for an inquiry or any kind of independent review. We need now to focus on ensuring that the policing system is the best it can be for the future, both in South Yorkshire and across the country.

A handwritten signature in black ink, appearing to read 'Amber Rudd', written in a cursive style.

Rt Hon Amber Rudd MP