

# Scottish Child Abuse Inquiry

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## General Restriction Order

The Chair has power under section 19 of the Inquiries Act 2005 to make a restriction order to restrict disclosure or publication of any evidence or documents given, produced or provided to the Inquiry.

The Chair has considered the sensitive and/or personal nature of the evidence being provided to the Inquiry (and likely to be provided in the future). The Chair has had regard to the interests of the persons to whom this order applies, and to the risk of harm being occasioned to them. The Chair has concluded that it is conducive to the Inquiry fulfilling its Terms of Reference to issue a restriction order and makes this order.

The Chair's General Restriction Order dated 27th November 2018 is hereby revoked. This order replaces the previous order. This order is effective from today's date.

### Part One

1. This part of the order applies to the following categories of people:
  - a. Applicants<sup>1</sup>;
  - b. Any other person who is or was a child in care<sup>2</sup> in Scotland, or whose care was arranged in Scotland, during the period within living memory up until 17 December 2014;
  - c. Family members of applicants or children in care<sup>3</sup>;
  - d. People who have complained of being abused<sup>4</sup> as a child but who are not applicants or children in care, and people who have complained of being abused as a child in circumstances not falling within this Inquiry's Terms of Reference.

These people are described in this order as "people protected by Part One".

2. Evidence or documents given, produced or provided to the Inquiry which identify people protected by Part One (including names and any other

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<sup>1</sup> "Applicant" means any person who tells the Inquiry, whether in a written statement or otherwise, that they were abused in circumstances which fall within the Inquiry's Terms of Reference.

<sup>2</sup> "child in care" means a child in care as defined in the Inquiry's Terms of Reference.

<sup>3</sup> "family member" includes any person who an applicant or a person now deceased regarded as a member of their family.

<sup>4</sup> Abuse" means abuse as defined in the Inquiry's Terms of Reference.

identifying details) must not be disclosed and/or published without the consent of the person concerned.

3. Notwithstanding paragraph 2, members of the Inquiry team may disclose the identities of people protected by Part One to (1) any persons or organisations named by them in their witness statements as having been involved in any abuse they allege and/or (2) any persons or organisations named in any evidence or documents given, produced or provided to the Inquiry as having been involved in any abuse of people protected by Part One, and to the legal representatives of any person or organisation so named. Disclosure would be made strictly on a confidential basis and only for the purpose of protecting any legitimate interest they may have in the work of the Inquiry.
4. Notwithstanding paragraph 2, members of the Inquiry team may disclose the identities of people protected by Part One to any persons or organisations who they believe hold information relevant to the Inquiry's Terms of Reference in order to recover information to assist the Inquiry with its investigations, or may disclose the identities of people protected by Part One to experts instructed by the Inquiry where this is necessary to enable the expert(s) to carry out work which the Inquiry has instructed them to undertake. This may be done only on a strictly confidential basis and only for the purpose of progressing the work of the Inquiry.
5. Notwithstanding paragraph 2, the Chair may, at her discretion, instruct members of the Inquiry team to disapply this order in relation to documentary evidence which forms part of a case study bundle to be released to parties with leave to appear, if she considers that to do so would not create a risk of harm to people protected by Part One. Access to case study bundles is only afforded on a strictly confidential basis and only for the purpose of protecting any legitimate interest which parties may have in the work of the Inquiry.
6. The restrictions in paragraph 2 do not apply to disclosures made by members of the Inquiry team to Police Scotland of the identities of any persons to enable assessment by Police Scotland of current risk of harm to any person or risk to any person's life. Nor do the restrictions in paragraph 2 apply to disclosures made by members of the Inquiry team to Police Scotland of information that has been provided to them indicating that persons protected by those restrictions have been subjected to harassment or intimidation.
7. Notwithstanding paragraph 2, the Chair may permit the identities of people protected by Part One to be disclosed and/or published where such identities and the fact that they have made allegations of abuse are already in the public domain.

## Part Two

8. This part of the order applies to the following category of people:

Persons who, according to evidence given directly to the Inquiry<sup>5</sup>, are the subject of allegations of abuse but who have not been convicted of abusing children in care.

These people are described in this order as “people protected by Part Two”.

9. Evidence or documents given, produced or provided to the Inquiry which identify people protected by Part Two (including names and any other identifying details) must not be disclosed and/or published prior to the publication of any Findings or Report(s) by the Inquiry. The Chair may make a further order restricting the disclosure of such identities in any such Findings or Report and may make an order restricting disclosure of them after its publication.
10. Notwithstanding paragraph 9, the identities of people protected by Part Two may be disclosed by members of the Inquiry team to (1) any persons or organisations who they believe hold information relevant to the Inquiry’s Terms of Reference, in order to recover information to assist the Inquiry with its investigations, and/or (2) any provider of a care establishment where people protected by Part Two are alleged to have carried out abuse and to the legal representatives of any such provider of care. This may be done only on a strictly confidential basis and, in respect of (1), only for the purpose of progressing the work of the Inquiry or, in respect of (2), only for the purpose of protecting any legitimate interest they may have in the work of the Inquiry.
11. Notwithstanding paragraph 9, the Chair may, at her discretion, instruct members of the Inquiry team to disapply this order in relation to documentary evidence which forms part of a case study bundle to be released to parties with leave to appear, if she considers that to do so would not create a risk of harm to people protected by Part Two. Access to case study bundles is only afforded on a strictly confidential basis and only for the purpose of protecting any legitimate interest which parties may have in the work of the Inquiry.
12. The restriction in paragraph 9 does not apply to disclosures by members of the Inquiry team to Police Scotland relating to those who are the subject of allegations of abuse to enable assessment by Police Scotland of current risk to children or vulnerable adults.
13. The restriction in paragraph 9 does not apply to disclosures made by members of the Inquiry team to Police Scotland of the identities of any persons to enable assessment by Police Scotland of current risk of harm to any person or risk to any person’s life. Nor does the restriction in paragraph 8 apply to disclosures made by members of the Inquiry team to Police Scotland of information that has been provided to them indicating that persons protected by those restrictions have been subjected to harassment or intimidation.

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<sup>5</sup> “Evidence given directly to the Inquiry” includes evidence provided by applicants and other witnesses in statements, and evidence provided to the Inquiry by providers of care which contains details of allegations of abuse which have been made to them.

14. The restriction in paragraph 9 does not apply to disclosures made by members of the Inquiry team to Police Scotland of the identities of any persons who the Inquiry believes may have committed an offence under section 35 of the Inquiries Act 2005.
15. Notwithstanding paragraph 9, the Chair may permit the identities of people protected by Part Two to be disclosed and/or published where allegations that they abused children in care are already in the public domain.

14<sup>th</sup> March 2019