

Scottish Child Abuse Inquiry

PO Box 24202 | Edinburgh | EH3 1JN

e-mail: solicitors@childabuseinquiry.scot

General Restriction Order

Public inquiries are established to address matters of public concern by way of effective independent public investigation. The Chair of this Inquiry is obliged to take such steps as she considers reasonable to make evidence and documents provided to the Inquiry available to the public (see: Inquiries Act 2005 (“the 2005 Act”), section 18). That important obligation is, however, subject to any orders to restrict disclosure or publication issued by the Chair under section 19 of the 2005 Act (“restriction orders”).

The Chair may issue restriction orders only to the extent that they are required by law, or are conducive to the Inquiry fulfilling its terms of reference or are necessary in the public interest, for example, to ensure the efficiency or effectiveness of the Inquiry. When deciding whether or not to make a restriction order, the Chair will take account of any risk of harm or damage which may be avoided or reduced by issuing a restriction order.

This Inquiry concerns the abuse of children in care. Evidence, for example, evidence provided in witness statements and evidence given by witnesses during Inquiry hearings, is obtained from people falling within the categories set out below (hereinafter referred to as ‘protected persons’) and from other persons and organisations. Furthermore, the Inquiry receives documents concerning these matters.

The Chair has had regard to the sensitive and/or personal nature of many aspects of such evidence and documents, to the interests of protected persons who may be identified by such evidence and/or documents and to the risk of harm and/or damage being occasioned to them.

Protected Persons

The identities of the following classes of persons are protected by this Restriction Order:

1. Applicants¹;
2. Applicants’ family members²;
3. Children in care³, where the evidence and/or document relates to their experiences in childhood

¹ An applicant is a person who applies to give evidence to the Inquiry about having been abused (as defined in the Inquiry’s [Terms of Reference](#)) when they were in care as a child.

² “Family member” includes any person who an applicant regarded or regards as a member of their family or foster family and/or who lived or lives with the applicant in a family-type setting, including foster carers and foster siblings.

³ Any person, other than an applicant, who is or was a child in care (as defined in the [Terms of Reference](#)) in Scotland, or whose care was arranged in Scotland, during the period within living memory to date

4. Family members of persons falling within paragraph 3 above;
5. Alleged abusers⁴;
6. Any person who was not a child in care but who experienced abuse as a child which is relevant to the Inquiry because it took place in an institutional residential care setting⁵ and/or because the person against whom the allegations are made is an alleged or convicted⁶ abuser;

The Chair has concluded that it is in the public interest and conducive to the Inquiry fulfilling its Terms of Reference to issue an amended restriction order in the following terms:

Subject to the exceptions detailed in paragraphs i-vi below:

- 1. Evidence given to the Inquiry by way of a written statement and/or by a witness giving evidence in person before the Inquiry, to the extent that such evidence identifies protected persons, must not be disclosed to or by any person and/or published by any person without the express written permission of the Chair.**
- 2. Documents which bear to have been created for the purposes of the Inquiry⁷, (hereinafter referred to as “Inquiry documents”), to the extent that such documents identify protected persons, must not be disclosed to or by any person and/or published by any person without the express written permission of the Chair.**
- 3. Documents recovered or obtained by the Inquiry in exercise of its statutory functions, which are processed by the Inquiry and which will bear an Inquiry reference⁸ (hereinafter referred to as “Inquiry copies”), to the extent that such Inquiry copies identify protected persons, must not be disclosed to or by any person and/or published by any person without the express written permission of the Chair.**

For the avoidance of doubt, this Restriction Order does not restrict the publication and/or disclosure of published versions of anything falling within paragraphs 1 to 3 above which has been published by the Inquiry on its [website](#).

⁴ Persons who, according to evidence given directly to the Inquiry (such as evidence provided by applicants and other witnesses in statements or during hearings, and evidence provided to the Inquiry by providers of care which contains details of allegations of abuse which have been made to them), are accused of having abused children in circumstances within the Inquiry’s Terms of Reference, but who have not been convicted of abusing children in care or found by the Chair to have done so.

⁵ “Institutional residential care setting” means as explained in the definition of “Children in Care” in the Inquiry’s [Terms of Reference](#)

⁶ Persons who have been convicted of abuse of children in circumstances within the Inquiry’s Terms of Reference

⁷ For example reports produced in response to notices issued by the Chair under and in terms of section 21 of the 2005 Act - examples can be found on the Inquiry’s [website](#)

⁸ Inquiry references have three letter prefixes followed by numbers, and appear in the top left hand corner of documents – examples can be found on the Inquiry’s [website](#)

Nor does paragraph 3 of this Restriction Order restrict the publication and/or disclosure of (a) original documents held by the person or organisation which provided them to the Inquiry and/or (b) copies obtained from that person or organisation which are not “Inquiry copies”.

This Restriction Order revokes and replaces the Restriction Order of 26th April 2022, and is effective from 10th August 2022.

Exceptions

The following exceptions qualify the prohibition on disclosure or publication of the identities of protected persons detailed in this Restriction Order:

- i. Members of the Inquiry team may disclose the identities of protected persons to any persons or organisations named as having been involved in abuse or responsible for the institution where the abuse occurred and to the legal representatives of any person or organisation so named. Disclosure to such persons or organisations and/or their legal representatives will be made strictly on a confidential basis and only for the purpose of progressing the work of the Inquiry and in the interests of fairness.
- ii. Members of the Inquiry team may disclose the identities of protected persons 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 protected persons 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.
- iii. 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 protected persons. Access to case study bundles is only afforded on a strictly confidential basis, only for the purpose of progressing the work of the Inquiry and only in the overall interests of fairness.
- iv. This Order does not restrict 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.
- v. This Order does not restrict 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 this Order restrict disclosures made by members of the Inquiry

team to Police Scotland of information indicating that persons protected by this Order have been subjected to harassment or intimidation.

- vi. The Chair may permit the identities of protected persons to be disclosed and/or published where such identities, and the fact that they have made or have been subject to allegations of abuse, are already in the public domain, or otherwise if she considers it appropriate in all the circumstances to do so.
- vii. In respect of the protected persons in paragraph 5 above (alleged abusers), this order protects their identities in advance of publication of any Findings or Report(s) by the Inquiry. The Chair will permit disclosure and/or publication of such identities thereafter in respect of any such person who she finds to have abused children in care and identifies in any such Findings or Report(s). However the Chair may, in her discretion, decide to maintain the protection afforded by this Order. This will be the position in respect of any such person who is not identified in Findings or Report(s).

10th August 2022