

# RESTRICTION ORDER

## No. 3: ANONYMITY OF WITNESSES 4 AND 5



The Chair of the Scottish Hospitals Inquiry, in exercise of the powers contained in section 19 of the Inquiries Act 2005 (“the Act”) and all other powers enabling him in that behalf, makes the following Restriction Order.

IT IS ORDERED THAT:

### 1. General

- 1.1 This Order is made on 6 September 2021 and remains in force indefinitely, unless the Chair of the Inquiry orders otherwise.
- 1.2 The Chair may vary or revoke this Order by making a further order at any point during the course of the Inquiry.
- 1.3 Any person aware of any breach of this Order must notify the Solicitor to the Inquiry in writing immediately upon becoming aware of the breach.

### 2. Interpretation

- 2.1 For the purposes of this Order:
  - 2.1.1 “Core Participant” means an individual or organisation who is designated a Core Participant by the Chair to the Inquiry.
  - 2.1.2 “Inquiry” means the public inquiry established by the Scottish Ministers under the Inquiries Act 2005 to consider the planning, design, construction, commissioning and, where appropriate, maintenance of both the Queen Elizabeth University Hospital Campus (QEUH), Glasgow and the Royal Hospital for Children and Young People and Department of Clinical Neurosciences (RHCYP/DCN), Edinburgh with Lord Brodie PC QC as chair, commonly referred to as the Scottish Hospitals Inquiry. References to the “Chair” should be construed accordingly.
  - 2.1.3 “Recognised Legal Representative” has the meaning given by Rule 5(1) of the Inquiries (Scotland) Rules 2007.
  - 2.1.4 “Witness Statements” means the witness statements and any documents referred to in the witness statement, provided by the Witnesses to the Scottish Hospitals Inquiry.
  - 2.1.5 “Witnesses” means Witness 4 and Witness 5.

### **3. Order**

- 3.1 This Order applies to any information contained in the Witness Statements or evidence given in the course of the Inquiry's proceedings, whether by the Witnesses or otherwise, including evidence which is published on the Inquiry's website, insofar as such information is capable of leading to the identification of the Witnesses.
- 3.2 Reference to information which is capable of leading to the identification of the identity of a person includes, but is not limited to, the witness's name, the witness's address, the names of any children of the witness, the identity of the witness's place of work, any still or moving image of the witness and any information that may tend to identify the witness and the witness's family members, which may for the avoidance of doubt, include deceased family members.
- 3.3 There shall be no reporting or publication whatsoever of any information capable of leading to the identification of the Witnesses. Particular provisions relevant to this restriction include, but are not limited to, the following:
- 3.3.1 There shall be no reporting or publication of any information provided in the course of any oral witness evidence during the Inquiry's hearings which is capable of leading to the identification of the identity of the Witnesses.
- 3.3.2 The oral evidence of the Witnesses shall be provided in closed session ("a Restricted Hearing"). During a Restricted Hearing everyone is excluded from the hearing room except for the members of the Inquiry team, the Witnesses (if called to give oral evidence) and the legal representatives of Core Participants.
- 3.3.3 There shall be no publicly available video recording or livestream (whether delayed or otherwise) on YouTube (or any other medium) of any oral witness evidence which is given by the Witnesses.
- 3.3.4 Any transcript of the oral testimony of the Witnesses made available by the Inquiry will be redacted prior to release to the press and the public to remove any information which is capable of leading to the identification of the Witnesses.
- 3.3.5 Materials adduced in evidence during the Inquiry's oral hearings which are capable of identifying the Witnesses shall be redacted to remove any such identifying information before they are published on the Inquiry's website.

#### **4. Disclosure of Witness Statements**

- 4.1 Any Witness Statements or any other statements, documents or evidence provided to the Inquiry, which are capable of identifying the Witnesses shall be redacted to remove any such identifying information before they are published on the Inquiry’s website, or disclosed to Core Participants.
- 4.2 Nothing in this Order prevents:-
- 4.2.1 the contents of the Witness Statement being referred to by the person who gave, produced or provided the Witness Statement and related evidence or documents to the Inquiry, outside of a Restricted Hearing;
  - 4.2.2 the contents of the Witness Statement being referred to by any member of staff of the Inquiry (which expression includes counsel to or instructed by the Inquiry) where the disclosure or publication is to another member or members of the staff of the Inquiry, or to an expert to the Inquiry, or to any person carrying out processing of information on behalf of the Inquiry whilst and only whilst doing so, and is for the purposes of the Inquiry;
  - 4.2.3 the contents of the Witness Statement being referred to orally at a Restricted Hearing; and
  - 4.2.4 a copy of the Witness Statements being provided by the Inquiry to the Crown Office and Procurator Fiscal Service on receipt of a written request from it.<sup>1</sup>

#### **5. PENAL NOTICE**

- 5.1 In the event of any breach of this Order, the Chair may certify the matter to the appropriate court under section 36(1) of the Act for the court to make such order by way of enforcement or otherwise as it sees fit.

Lord P Brodie QC PC  
Chair, Scottish Hospitals Inquiry  
6 September 2021

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<sup>1</sup> Paragraph 4.2.4 inserted by virtue of a variation of this Restriction Order made by Lord Brodie on 25 November 2021.