

**BROOK HOUSE INQUIRY**

**PROTOCOL FOR APPLICATIONS FOR RESTRICTION ORDERS**

1. It is important that the Inquiry's proceedings are conducted in as open and transparent manner as is possible. The Inquiry will therefore, as a general rule, distribute all relevant witness statements and other relevant material to core participants and those referred to in the Inquiry's public hearings or otherwise put in evidence will be published on the Inquiry's website.
2. All relevant material is to be provided to the Inquiry in complete and un-redacted form. With the potential exception of material that is subject to legal professional privilege, there is no justification for the withholding of any relevant material from the Inquiry.
3. However, should an individual or organisation seek to prevent disclosure (to core participants) and/or publication of material disclosed to the Inquiry, they may apply to the Chair for a restriction order preventing such disclosure or publication in accordance with s.19 of the Inquiries Act 2005.
4. This protocol sets out the process that should be followed when making an application of this nature.

Application process

5. An applications for a restriction order under s.19 of the Inquiries Act 2005 should be made in writing to the Solicitor to the Inquiry.

6. Any such application should include:

- (i) An open section that identifies the relevant material and the nature and extent of the restriction sought in as much detail as possible without defeating the purpose of the application;
- (ii) A closed section that provides all remaining information about the application, including a full description of the relevant material and the grounds on which it is made. Information set out in the closed section will be treated by the Inquiry as 'potentially restricted evidence' within the meaning of Rule 12(1) of the Inquiry Rules 2006; and
- (iii) Evidence in support of the application, which may, if necessary, be provided in open and closed form.

7. The procedure the Inquiry intends to adopt in response to such an application is as follows:

- (i) The Inquiry's legal team will discuss with the applicant whether any more of the information contained in the closed section of the application and any evidence provided in closed form can be moved into the open version. The purpose of the discussion will be to ensure that as much of the application as possible is in open.
- (ii) The open sections of the application and any evidence in support will be served on those core participants with an interest in the matters to which the application relates. They may also be published on the Inquiry's website. The Chair may issue a 'minded to' decision when circulating the application.

- (iii) Where appropriate, the closed sections of the application and any evidence in support may be served on core participants subject to confidentiality undertakings. The Inquiry legal team will consult with the applicant as to whether such disclosure should be permitted. The Chair will decide whether and on whom to serve this material in the light of all the circumstances, including any representations made by the applicant, the sensitivity of the material, the importance of the material to the Inquiry's investigation and any representations that she has received. Consideration will be given as part of this process to the possibility of serving redacted versions and/or gists of the closed sections of the application and supporting evidence.
- (iv) The Chair will invite core participants to file written submissions in response to the application (and 'minded to' decision if applicable). These submissions may be published on the Inquiry's website.
- (v) The Chair will consider any representations made by the media in response to the open sections of any application, including representations seeking disclosure of the closed sections subject to appropriate undertakings of confidentiality.
- (vi) The Chair may thereafter: invite Counsel to the Inquiry to file written submissions in response to the application (and 'minded to' decision if applicable); and/or hear oral submissions on the application at a hearing, including if necessary in private session in the absence of the public and/or members of the press and/or some or all core participants.
- (vii) The Chair will determine the application and give a written ruling, which will be published on the Inquiry's website. The ruling may contain a closed addendum, which will not be made public.

8. The Chair may vary the procedure set out above as appropriate.
9. If a person applying for a restriction order wishes the application to be determined by a procedure other than that set out above, written representations to that effect should be included with the application.

**Issued under the authority of the Chair on 7<sup>th</sup> April 2020**