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**RESTRICTION ORDER PURSUANT TO SECTION 19(2)(b) OF THE INQUIRIES ACT  
2005 IN RELATION TO THE IDENTITY OF FORMERLY DETAINED INDIVIDUALS**

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### **Background**

1. The Inquiry was established to investigate the decisions, actions and circumstances surrounding the mistreatment of detainees at Brook House Immigration Removal Centre broadcast in the BBC Panorama programme 'Undercover: Britain's Immigration Secrets' on 4 September 2017.
2. Written and oral evidence will include testimony from and evidence about individuals who were detained at Brook House during the period (set out in the Inquiry's Terms of Reference). Those individuals will be referred to in this Order as 'Formerly Detained Individuals'.
3. Pursuant to section 18 of the Inquiries Act 2005, I must take reasonable steps to secure public access to the Inquiry's proceedings and information, subject to any restrictions imposed by me under section 19 of the Inquiries Act 2005.
4. As I explained in my opening statement, 'I very much want to hear about [their] experiences of being detained. I need to hear from people with first-hand experience of life inside Brook House at that time in order to understand as fully as possible the extent and nature of the mistreatment.' Likewise it is important that the Inquiry hears from anyone who was 'detained at Brook House but had a different experience from what was shown in the Panorama documentary.' The Inquiry recognises that many formerly detained individuals may have vulnerabilities.
5. The Inquiry has gathered a significant amount of evidence about the experiences of formerly detained individuals at Brook House. That evidence includes personal data as well as special category data within the meaning of the General Data Protection Regulation and the Data Protection Act 2018, such as highly sensitive medical information. I consider it is not necessary for this information to be disclosed or published in a form that names or identifies the individuals to which the information relates in order for the Inquiry to conduct its work. Accordingly there is a need for the Inquiry to afford them the protections already available under these statutory provisions in its own proceedings.

6. Further, I recognise the need to balance the need for transparency and open justice, and the requirements of Article 10 ECHR, together with my obligations under section 18 of the Inquiries Act 2005. However, I consider that the prospect of identifiable sensitive personal information in relation to detained individuals and formerly detained individuals being in the public domain is likely to reduce the willingness of many individuals to give evidence to the Inquiry, with the result that it will be impeded in fulfilling its terms of reference. Accordingly, I consider that the balance should fall in favour of encouraging formerly detained individuals to provide evidence and to avoid the risk of information identifying them from being published.
7. Therefore, as explained by former Counsel to the Inquiry at the Inquiry's first preliminary hearing on 25 September 2020, when reviewing documents for disclosure to Core Participants and for potential publication, the Inquiry applies ciphers to the names of formerly detained individuals, and other redactions to protect their identities. This Order is intended to give legal effect to these redactions and ciphers.
8. I am satisfied that if restrictions are not imposed protecting the anonymity of all formerly detained individuals, it will impair the effectiveness of the Inquiry and discourage the participation of formerly detained individuals in assisting the Inquiry. It is not necessary for their identities to be known by the public in order for the Inquiry to carry out its important work.

### **Restriction Order**

9. Having regard to sections 19(1), 19(3)(b) and 19(4)(d)(i) a Restriction Order is imposed pursuant to section 19(2)(b) of the Inquiries Act 2005 to prohibit the disclosure or publication of any information tending to identify:
  - a. any formerly detained individual designated as a Core Participant in the Inquiry; and
  - b. any formerly detained individual, from or about whom, the Inquiry hears or adduces evidence.
10. This Restriction Order binds all members of the public.
11. The Restriction Order prohibits, except in the circumstances set out in paragraphs 14 to 17 below, the disclosure or publication of the name of any formerly detained individual whose identity has been redacted and/or ciphered by the Inquiry in circumstances where doing so may link them with the evidence considered by the Inquiry. This includes, but is not limited to, the identities of formerly detained individuals ciphered within the documents or referred to in the transcripts published in the following ways:
  - a. On the 'hearings' and 'evidence' pages of the Brook House Inquiry's website;
  - b. In any report of the Inquiry, and any documents published with it.
12. For the avoidance of doubt, publication includes publishing information on any website, blog, Twitter or other social media.

## Exceptions

13. The Restriction Order is subject to the exceptions or provisions set out in the following paragraphs (paragraphs 14 to 18).
14. This Restriction Order does not apply in respect of the individuals and matters referred to in **Annex A**. Each individual therein has made a specific request for the terms of the Order to be varied and the Annex sets out the variation made by the Chair.
15. The Restriction Order does not prohibit **disclosure only** of the matters falling within paragraphs 9 and 11 in the following circumstances:
  - a. Where a formerly detained individual is disclosing their own identity and link to the Inquiry's proceedings to close family or friends provided that the person to whom they are making the disclosure is informed that he or she is bound by the terms of this Restriction Order;
  - b. Where a formerly detained individual is disclosing their own identity and link to the Inquiry's proceedings for the purposes of obtaining medical services or emotional support (whether personal or professional) provided that the person to whom they are making the disclosure is informed that he or she is bound by the terms of this Restriction Order;
  - c. Where the person making the disclosure is a formerly detained individual who is disclosing their own identity and link to the Inquiry's proceedings in confidence to their legal adviser, or a legal adviser making such a disclosure to another legal adviser on their instruction, in connection with other legal matters, including immigration applications, in which their involvement in the Inquiry is relevant.

This exception is limited to disclosure to a legal adviser in confidence and subject to legal professional privilege only and does not permit wider disclosure to the Court or any party in the proceedings without further reference to the Inquiry.
16. This Restriction Order does not prohibit the disclosure or publication of any information that is already in, or is put into, the public domain otherwise than by breach of any term of this Restriction Order, provided no direct link is made in such disclosure or publication to evidence heard by the Inquiry in relation to the individual, or individuals, to whom the information relates.
17. The Inquiry's legal team may, on my behalf, provide on terms of confidence, the identity of a formerly detained individual, to other Core Participants or third parties as is necessary to assist the work of the Inquiry.
18. In the case of public authorities, the restrictions specified in this Order take effect subject to the terms of section 20(6) of the Inquiries Act 2005.

## **General Provisions**

19. This Restriction Order amends and replaces the previous Restriction Order in respect of the identities of formerly detained individuals dated 22 November 2021.
20. Pursuant to section (20)(4) of the Inquiries Act 2005, I may vary or revoke this Restriction Order by making a further order during the course of the Inquiry.
21. Any person affected by this Order may in accordance with section 20 of the Inquiries Act 2005 apply to vary its terms.
22. This Restriction Order continues in force indefinitely, or unless the Order is varied or revoked pursuant to section 20 of the Inquiries Act 2005.

Kate Eves

Chair of the Brook House Public Inquiry

23 November 2021

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**ANNEX A**

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<b>Cipher applied by Inquiry</b>	<b>Variation made by Chair</b>
D1527	May be referred to as MA.  Footage may be published by the Inquiry showing the image of D1527. Further disclosure of such footage as is published by the Inquiry would not constitute a breach of this RO
D1851	May be referred to as IA
D1914	May be referred to as CC
D2077	May be referred to as DS
D1538	May be referred to as HEH
D687	May be referred to as BB