



General Restriction Order

Introduction

- a) Section 18(1)(b) of the Inquiries Act 2005 (“the Act”) imposes an obligation on the Chairman of the Inquiry (“the Chair”) to take such steps as he considers reasonable to secure that members of the public (including reporters) are able to obtain or view a record of evidence and documents given, produced or provided to the Inquiry. The Chair’s obligation is subject to any restrictions imposed on disclosure or publication of any evidence or documents produced or provided to the Inquiry, including restrictions imposed by order of the Chair under section 19 of the Act.
- b) Section 19(3) of the Act provides that restrictions on the disclosure or publication of such evidence or documents by the Inquiry can be imposed where (i) such restrictions are required by law, or (ii) the Chair considers it to be conducive to the Inquiry fulfilling its terms of reference or to be necessary in the public interest, having regard in particular to the matters mentioned in section 19(4) of the Act.
- c) The Chair considers that certain restrictions on disclosure and/ or publication by the Inquiry of certain evidence and documents given, produced or provided to the Inquiry or to be given, produced or provided to the Inquiry should be so imposed. He also considers that those who take an interest in the work of the Inquiry should have clarity

about how information contained in evidence and documents given, produced or provided to the Inquiry will be so restricted and why it will be. This General Restriction Order seeks to serve these purposes.

Therefore, in exercise of the powers contained in Section 19 of the Act, the Chair orders that:

Date and duration

1. This Restriction Order is made on 7 May 2025 and remains in force indefinitely, unless the Chair orders otherwise.
2. The Chair may vary or revoke this Restriction Order by making a further order at any point during the course of the Inquiry.
3. Any person affected by this Restriction Order may apply for it to be varied or discharged by giving by emailing the Solicitor to the Inquiry at legal@eljamelinquiry.scot.
4. The contents of this Restriction Order are without prejudice to and apply in addition to the rules and obligations imposed by the Inquiry's First Order dated 7 May 2025.

Interpretation

5. For the purposes of this Order:
 - (a) "Core Participant" means an individual who has been designated as such under rule 4 of the Inquiries (Scotland) Rules 2007 ("the Rules") and who has signed a confidentiality undertaking, or an individual office bearer of an organisation which has been so designated and who has signed a confidentiality undertaking;

- (b) “Disclosure” means passing or otherwise transferring any Material to any other person, with the word “disclose” and other associated words to be construed accordingly;
- (c) “Independent Clinical Review” means the independent clinical review process into cases of former patients of Mr Eljamel, being led by Professor Stephen Wigmore;
- (d) “Material” means any evidence or other documents of whatsoever nature given, produced or provided to the Inquiry;
- (e) “Publication” means the dissemination of any Material to the public at large or a section of it, with the word “publish” and other associated words to be construed accordingly; and
- (f) “Recognised Legal Representative” means a qualified lawyer appointed under rules 5 or 7 or approved under rule 6 of the Rules as the case may be who has signed a confidentiality undertaking (which term includes Counsel, for the avoidance of doubt).

A. Medical Information (CAT A)

- 6. Where medical information has been provided to or obtained by the Inquiry within any Material (including but not limited to medical information contained in medical records), the content of the medical information and the identity of the person to whom the medical information relates will not be disclosed or published by the Inquiry.
- 7. The general provision in the previous paragraph does not apply where:
 - (a) disclosure or publication of the medical information is required by law;

- (b) the medical information is mentioned in and/ or appended to a written statement provided to or obtained by the Inquiry and made by a Core Participant or witness to whom that medical information relates;
- (c) the medical information is mentioned in and/ or appended to an expert report provided to or obtained by the Inquiry;
- (d) the person to whom the medical information principally relates consents to its disclosure and/ or publication;
- (e) the medical information has already been published to a substantial section of the public;
- (f) disclosure is being made by the Inquiry to the Core Participant or witness to whom the medical information principally relates or that person's authorised relative/ representative or any Recognised Legal Representative acting for the Core Participant or witness to whom the medical information principally relates or that person's authorised relative/ representative; or
- (g) disclosure is being made by the Inquiry for the purposes of the Inquiry to:
 - i) the Chair of the Independent Clinical Review;
 - ii) a member of the staff of the Independent Clinical Review;
 - iii) an expert witness or expert witnesses instructed by the Inquiry; or
 - iv) an expert witness or expert witnesses instructed by the Chair of the Independent Clinical Review.
- (h) disclosure of the medical information is required in accordance with paragraphs 16 *et seq* below; or
- (i) disclosure of the medical information is required in accordance with paragraphs 19 *et seq* below.

B. Anonymity Order (CAT B)

8. Applications for anonymity must be made in accordance with the procedures set out or to be set out in Inquiry's relevant Protocols. Where a person has been granted anonymity, the name and address of the person to whom anonymity has been granted and any other identifying information will not be disclosed or published in any form. The name and address of the person and any other identifying information will be redacted from any Material.

9. The general provision in the previous paragraph does not apply where:

(a) disclosure is being made by the Inquiry to the person to whom the identifying information principally relates or that person's authorised relative/ representative or any Recognised Legal Representative acting for that person or that person's authorised relative/ representative (including for the avoidance of doubt Counsel instructed on behalf of the person or the person's authorised relative/ representative);

(b) disclosure is being made by the Inquiry for the purposes of the Inquiry to:

- i) the Chair of the Independent Clinical Review;
- ii) a member of the staff of the Independent Clinical Review;
- iii) an expert witness or expert witnesses instructed by the Inquiry; or
- iv) an expert witness or expert witnesses instructed by the Chair of the Independent Clinical Review.

(c) disclosure is required in accordance with paragraphs 16 *et seq* below; or

(d) disclosure is required in accordance with paragraphs 19 *et seq* below.

10. A confidential schedule of witnesses to whom this part of this Restriction Order relates will be maintained by the Inquiry.

11. Any person who has applied for an order granting them anonymity and has been determined to fall within this part of this Restriction Order may apply to the Chair of the Inquiry to amend or remove their anonymity at any time.

C. Personal Information (CAT C)

12. Pursuant to section 19(3)(a) and (b) of the Act, personal information contained in any Material may not be disclosed or published by the Inquiry (including by way of redaction from Material) (i) if necessary to comply with the Inquiry's obligations Human Rights Act 1998 (ii) if necessary to comply with the Inquiry's data protection obligations, or (iii) where the Chair considers it to be conducive to the Inquiry fulfilling its Terms of Reference or to be necessary in the public interest.

D. Efficiency and Effectiveness of the Inquiry (CAT D)

13. Pursuant to section 19(3)(b) of the Act, and having regard to section 19(4)(d), information contained within Material may not be disclosed or published by the Inquiry (including by way of redaction from Material) where the Chair considers it to be conducive to the Inquiry fulfilling its Terms of Reference or to be necessary in the public interest, having regard in particular to the extent to which not imposing the restriction would cause delay or impair the efficiency or effectiveness of the Inquiry, or would otherwise result in additional cost.

E. Relevance (CAT E)

14. Pursuant to section 19(3)(b) of the Act, and having regard to section 19(4)(d), the Inquiry may not disclose information contained in Material either in whole or in part (by way of redaction) where the Chair considers such evidence or documents to be or to contain evidence which is irrelevant to the Inquiry's Terms of Reference.

F. Other legal requirement (CAT F)

15. Pursuant to section 19(3)(a) of the Act, the Inquiry may not disclose information contained in Material either in whole or in part (by way of redaction) to such an extent as is otherwise required by statutory provision, enforceable community obligation or rule of law.

Requests and Notices

16. Where the Inquiry issues a request pursuant to rule 8 of the Rules or issues a notice pursuant to section 21 of the Act, the Inquiry may require to disclose information contained in Material to the recipient of the Rule 8 request or the section 21 notice, which would otherwise not be disclosed to them in accordance categories A to F above in order to enable them properly to respond to the requirements of the rule 8 request or the section 21 notice.
17. If the Inquiry intends to disclose the identity of a person who has been granted anonymity in the circumstances described in paragraph 16 it will provide at least 14 days' notice of its intention to do so to that person or that person's authorised relative/ representative (or their Recognised Legal Representative) to allow that person or that person's authorised relative/ representative an opportunity to make an application requesting that the Inquiry considers not disclosing this information.

18. The person to whom the request or notice is addressed must keep confidential any such information and documents included with or within the request or notice and must not disclose or publish it otherwise than as permitted in terms of the provisions of the Inquiry's First Order.

Written statements containing criticism

19. Where a written statement provided to the Inquiry (including for the avoidance of doubt an applicant statement provided to the Independent Clinical Review) contains criticism of a named person or organisation, the Inquiry may require to disclose the written statement or other information contained within Material, which would otherwise not be disclosed to them in accordance categories A to F above in order to enable them properly to respond to that criticism.
20. If the Inquiry intends to disclose the identity of a person who has been granted anonymity in the circumstances described in paragraph 19 it will provide at least 14 days' notice of its intention to do so to that person or that person's authorised relative/ representative (or their Recognised Legal Representative) to allow that person or that person's authorised relative/ representative an opportunity to make an application requesting that the Inquiry considers not disclosing this information.
21. The person to whom the request or notice is addressed must keep confidential any such information and documents included with or within the request or notice and must not disclose or publish it otherwise than as permitted in terms of the provisions of the Inquiry's First Order.

Redaction

22. Redactions applied in accordance with this Restriction Order will be marked on documents which are disclosed or published by the Inquiry and will be overwritten with the prefix CAT A, CAT B, CAT C, CAT D, CAT E or CAT F as applicable, in order that it be made clear as to the reasons why redactions have been applied, in accordance with the provisions of this Restriction Order.

The Hon. Lord Weir

Chair of the Eljamel Inquiry

7 May 2025