

NOTICE OF DETERMINATION DATED 3 MAY 2017

**INVESTIGATION INTO INSTITUTIONAL RESPONSES TO ALLEGATIONS OF CHILD
SEXUAL ABUSE INVOLVING THE LATE LORD JANNER OF BRAUNSTONE QC**

1. On 16 December 2016 I gave a Provisional Determination on certain matters concerning the Investigation into Institutional Responses to Allegations of Child Sexual Abuse Involving the Late Lord Janner of Braunstone QC ('the Investigation'). This followed the review that I had instigated in August 2016 into the Inquiry's way of working. In particular, I made the following three 'minded to' decisions, which were stated to be my provisional views and to be subject to any submissions made to me [paragraph 19 of the Provisional Determination]:
 - a. The Inquiry should continue to conduct an investigation into institutional responses to allegations of child sexual abuse against Lord Janner.
 - b. The formal definition of scope of this investigation should be amended in the way set out in the Annex to that Provisional Determination.
 - c. The substantive public hearings in this investigation will not be held until I am satisfied that an appropriate balance has been struck to minimise (a) duplication of work that is being conducted by other organisations, in particular the IPCC, (b) the risk that a public hearing will contaminate evidence relevant to any criminal proceedings, and (c) the risk that the welfare of some individuals may be adversely affected by repeated questioning about issues relevant to this investigation.
2. I invited written submissions from Counsel to the Inquiry, Core Participants and other interested parties on these 'minded to' decisions [paragraphs 23 and 24]. I stated that I would hold a preliminary hearing for oral submissions "if necessary" [paragraph 25].
3. I received ten sets of submissions in February and March 2017, nine from Core Participants and one from Counsel to the Inquiry. Having considered them, I gave a Notice of Determination dated 11 April 2017. I addressed each of the three 'minded to' decisions set out above. The Notice of Determination was published on the Inquiry's website on the same day.

4. In the final paragraph of the Notice of Determination I stated the following [paragraph 40]:

“In light of the submissions I have received and the Determination that I have made I do not consider it necessary to hold a preliminary hearing for oral submissions. In my view, all Core Participants have had an opportunity to address the issues identified in my Provisional Determination. I have been assisted by the written submissions that I have received and I do not consider there to have been any further issues that have arisen as a result of those submissions such as to necessitate a preliminary hearing on the three ‘minded to’ decisions. I consider that I am able to make the decisions that I have made fairly and proportionately on the basis of the written submissions. In coming to this conclusion I note that I will continue to keep under review the continuation of the investigation, its scope, and the timing of any public hearings. I am also mindful of my duty under s.17 of the 2005 Act to act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or others). If any Core Participants wish to contend that I should nonetheless hold a hearing to enable further oral submissions to be made on the three ‘minded to’ decisions, they should provide reasons in writing within 7 days.”

5. The only submission I have received requesting a public hearing in respect of the Notice of Determination was made by Daniel Janner Q.C. That submission was sent to the Solicitor to the Inquiry by email on 16 April 2017. It is reproduced in full:

“Prof Jay has failed to take into account a number of representations made in writing and at the meeting held with the Inquiry solicitors.

“Accordingly, I would like the matter listed for an oral public hearing.”

6. Mr Janner’s reference to “the meeting held with the Inquiry solicitors” is to a meeting on 18 January 2017. This was attended by Solicitors and Counsel to the Inquiry, Mr Janner, Rabbi Laura Janner-Klausner, Marion Janner OBE and a lawyer acting on behalf of some of the members of the Janner family. This was part of a series of meetings held at that time with representatives of Core Participants and other interested parties. I referred to these meetings at paragraph 4 of my Notice of Determination.
7. I was not present at those meetings. I explained in advance that I would not be. I also explained that these meetings were not an opportunity to make submissions to

me and the Panel. In my Provisional Determination dated 16 December 2016 I stated the following:

“21. Members of the Inquiry’s legal team will make themselves available to meet with Core Participants and other interested parties in January 2017 if requested to do so.

“22. It would be inappropriate for me or any Panel member to attend such meetings. This is because all oral submissions that are made to the Chair and the Panel must, as a matter of fairness and transparency, be made publicly and in the presence of all Core Participants who choose to attend. The substance of any written submissions that are received by the Chair and the Panel will be circulated to all Core Participants.”

8. I am not persuaded by Mr Janner’s submission that there should be a preliminary hearing. I remain of the view that it is neither necessary nor proportionate to hold such a hearing at this stage and on the matters on which I have invited submissions. The Notice of Determination addresses all three ‘minded to’ decisions. It also sets out, in some detail, the submissions that I received on them. For the reasons I have given, I consider that I am able to make the decisions that I have made fairly and proportionately on the basis of the written submissions.
9. In respect of the other matters raised by Core Participants (including Mr Janner) in their written submissions, I repeat what I said at paragraph 33 of the Notice of Determination:

“Submissions were made on a number of other matters, including but not limited to the questions of whether there should be findings of fact on the underlying truth or otherwise of the allegations of abuse, whether the Investigation should be merged with the Westminster investigative strand, and the need for further consideration of procedural issues. I do not summarise those here as they are not directly relevant to the three ‘minded to’ decisions on which I invited submissions. I am, however, grateful for these submissions, which will inform our future work. Where and when appropriate I will invite further submissions on these matters.”

10. Accordingly, and for the reasons previously given, I do not consider it necessary or proportionate to hold a preliminary hearing in this Investigation at the current time.

Professor Alexis Jay OBE

3 May 2017

Chair, Independent Inquiry into Child Sexual Abuse