

**Investigation into institutional responses to allegations of child sexual abuse
involving the late Lord Janner of Braunstone QC**

Note for the preliminary hearing on 24 September 2019

The Structure of the Inquiry

1. The Inquiry is structured into three key elements:
 - a. Research
 - b. The Truth Project
 - c. Public Hearings.

In addition to these areas, there are a number of regional offices across the country as well as teams of staff working within the Secretariat such as the communications team, engagement team, data protection team and support team.

Research

2. The Research part of the Inquiry works across the Inquiry's terms of reference. It brings together in one place what is already known about child sexual abuse and identifies the gaps in the Inquiry's knowledge. It carries out new research including analysing the information that the Inquiry receives through the Truth Project. To date, it has reviewed 1,489 reports, published 13 of its own reports and it is currently involved in 6 ongoing research projects.

The Truth Project

3. The Truth Project allows victims and survivors of child sexual abuse to share their experience with the Inquiry. Those who wish to take part can attend a private session to share their experience with a member of the Inquiry. The process has no direct legal consequences. The Inquiry does not make individual findings on the basis of what is said during these private sessions. However, the information is recorded, anonymised and aggregated for the purpose of analysis and feeds directly into the Inquiry's research and analytical work. To date, just under 4000 individuals have shared their experiences with the Inquiry.

Public Hearings

4. The Inquiry has, to date, announced 14 different investigations into failings relating to child sexual abuse. Each investigation has a separate focus - typically an institution, a geographical area, a generic issue or a case study. Each investigation has been carefully selected based on the criteria for the selection of an investigation and has its own terms of reference and scope.
5. The Inquiry has held 190 days of public and preliminary hearings, received and processed over 2 million pages of evidence, heard from 397 witnesses and published seven investigation reports as well as an Interim Report. An eighth investigation report will be published on 19 September 2019.

The Inquiry's Work Programme

6. The Inquiry has a carefully designed work programme and a Programme Management Office (PMO) which maps each element of its work against the available resources. The Solicitor to the Inquiry is responsible for scheduling the Inquiry's public hearings and ensuring that each investigation progresses to enable its hearing to take place and investigation reports are produced on time.
7. The Inquiry has announced that the public hearings will conclude in November 2020. Dates for hearings up to and including March 2020 have been announced, and the remaining dates for hearings from March to November 2020 will be announced this coming autumn.
8. The Inquiry's work on each investigation report does not come to an end once a hearing is concluded. Production of an investigation report commences immediately after each hearing. This work is carefully scheduled around the Chair and Panel members' other Inquiry commitments, including their management responsibilities, reading time and attendance at further investigation hearings. The work programme is predicated on an average 8 to 10 month timeline for producing each investigation report, following the conclusion of each investigation hearing.
9. Given the scale of the Inquiry's task and the number and interrelationship of tasks that it must complete, any change in the timing of one part of the Chair and Panel's work has a knock on effect on others. For this reason, what may appear to an onlooker from the Inquiry's public hearings timetable to be a 'gap' when a new hearing might be 'slotted in', is time when the Inquiry is busy on other work behind the scenes. Moving an investigation hearing by a week or a month from its scheduled dates is likely to have a knock on effect of several weeks or months to other parts of the Inquiry's work. For these reasons, since the time of the Chair's Review in December 2016, the Inquiry has taken care to schedule a realistic programme of work and stick to its published hearing dates whenever possible.
10. In addition to the regular investigation reports that the Inquiry has decided to publish, it is required by section 24(1) of the Inquiries Act 2005 ('the Act') to produce a Final Report. This will be published and laid in Parliament in accordance with the requirements of sections 25 to 26 of the Act. The Inquiry intends that this will draw together the learning from each investigation as well as its Research and Truth Project functions, to reach conclusions across its terms of reference. The Final report will make final recommendations. For these reasons, it is not possible for the Final Report to be written until all of the Inquiry's investigative and other work has been completed.
11. In the report of the Inquiry Review published in December 2016, the Chair said that the Inquiry had two equally important tasks - to examine closely whether institutions have taken seriously their responsibility to protect children and to make meaningful recommendations for change. She was determined that the Inquiry should fulfil its remit within a reasonable timescale. She noted that children are being abused and

exploited today - and the Inquiry could not wait until it had concluded before it had a positive impact on their lives. She announced that the Inquiry would produce an Interim Report and make substantial progress by 2020.

12. The Chair also considered that the wide breadth of the Inquiry and its scope was a virtue, allowing it to recommend fundamental changes beyond the reach of an inquiry with a narrower remit. This was of particular importance where an institution had failed to take appropriate action to protect children in a family or other supposedly “safe” environment.
13. For the reasons set out above, any delay to the conclusion of one of the three key elements of the Inquiry is very likely to have an impact on the date by which the Inquiry can draw these together in the way envisaged by the Chair and produce its Final Report.
14. If hearings conclude as planned by November 2020, the Inquiry’s work programme is expecting that all investigation reports will be completed and published by about July 2021. Completion of the Final Report is expected to follow by the end of that year, with the Inquiry to conclude by March 2022.
15. If the work is to produce its Final Report to this timetable, this will be a substantial achievement, given the scale of the Inquiry’s task and the number of workstreams that will contribute to it. Nevertheless, this timescale still means that the Inquiry will conclude and make final recommendations for the better protection of children from sexual abuse seven years after its setting up date. After recommendations are made by the Inquiry in its Final report, these will need to be considered by HM Government and others to whom they are addressed, before the required changes can be implemented.
16. Any delay to the Inquiry’s work programme will necessarily have an impact on these timings and when such recommendations can be made, with a consequential impact on child protection.

Work required to prepare for public hearings

17. A large amount of work is required to prepare for public hearings in investigations. What follows is an outline of the stages involved.
18. The Inquiry will usually begin by seeking to obtain documents and other materials from organisations relevant to the investigation. This is generally done through correspondence and requests made under Rule 9 of the Inquiry Rules 2006. The Inquiry identifies search terms or matters that are of interest to it. The organisations conduct searches and provide material. The Inquiry may then make further requests. The process is an iterative one. The length of time required for searches and production of material varies greatly depending on factors such as the amount of material held, the date of the material in question, the quality of archiving, the availability of electronic searches, the physical location of the material and so forth.

19. The Inquiry's legal team review and analyse the material provided with a view to its relevance to the Investigation. Once relevant material has been identified it goes through a redaction process in preparation for disclosure to Core Participants. The redaction process is explained in the Inquiry's [Redaction Protocol](#). It is a labour intensive and painstaking exercise that, inevitably, takes considerable time. Material disclosed to Core Participants may, in due course, be adduced in evidence at the public hearings and be published on the Inquiry's website. The redaction process seeks to ensure that material that should not be made public is not erroneously disclosed - for example, the name of someone who was sexually abused as a child, or irrelevant sensitive details about witnesses.
20. Redactions are discussed with the organisation providing the material, and where relevant with others, in line with the Inquiry's protocol. This is a further necessary but time-consuming step. The speed with which the redactions can be applied cannot easily be increased. The work relies on human judgement and knowledge of the material in question. Increasing the size of the team carrying out the redactions risks undermining consistency and quality.
21. Once material has been reviewed for relevance and redacted, it can be disclosed to Core Participants. They then need time to analyse the material in order to participate effectively in the Inquiry's proceedings.
22. The Inquiry also identifies witnesses from whom witness statements are required. Rule 9 requests for such statements are prepared by the Inquiry's legal team, and relevant documents are identified to be included for the witnesses' consideration. Following the provision of an initial draft statement, the Inquiry may pose further questions or provide additional documents.
23. In the weeks and months before the public hearings, the Inquiry must also put in place logistical arrangements required to ensure that they are effective. Witnesses are contacted and measures put in place to enable them to attend or to give evidence remotely. Final redactions and disclosure are made, and outstanding issues addressed by written oral submissions. Core Participants suggest lines of enquiry to Counsel to the Inquiry, who undertake the main questioning of the witnesses.
24. All of these stages take time and must be performed carefully. It is simply not possible to force all of the relevant preparations into a short period. To do so would risk unfairness to the Core Participants, who would not be given sufficient time to prepare for and contribute to the hearings. It would risk inadvertent disclosure of sensitive information about witnesses and others. It would also risk the public hearings being ineffective due to insufficient preparation or insufficient analysis of relevant documents.
25. The preparation time for different investigations varies. In the case of this Investigation, it is estimated that a fair and effective public hearing will require a period of at least 7 months from the time when the Chair determines the focus of the Investigation following a preliminary hearing. That is a challenging but feasible

timetable.

Impact of IOPC and CPS decision making on this investigation to date

26. This investigation concerns the institutional responses to allegations of child sexual abuse involving the late Lord Janner of Braunstone Q.C. ('Lord Janner'). Within this investigation, the Inquiry will consider the adequacy and propriety of the institutional responses, investigations and decisions in relation to any such allegations that Lord Janner was involved in such abuse. The institutions being examined include, but are not limited to, Leicestershire Police, Leicestershire County Council, the Labour Party and the Crown Prosecution Service.
27. The Investigation formally opened in January 2016. There were two preliminary hearings on 9 March 2016 and 26 July 2016. A number of individuals and institutions were designated as Core Participants. It had been intended that the full public hearings of evidence would take place in September 2016, but this was adjourned in July 2016 in light of the IOPC investigation and because of a risk of prejudice to a further Leicestershire Police investigation into allegations of historic child sexual abuse. The public hearing was re-listed for March 2017.
28. On 16 December 2016, the Chair gave her Provisional Determination following an internal review on certain matters concerning this investigation. These were:
 - a. that the Inquiry should continue to conduct this investigation;
 - b. that the formal definition of scope for this investigation should be that set out in Annex 1
 - c. that the substantive hearings would not be held until she was satisfied that an appropriate balance had been struck to minimise (a) duplication of work; (b) the risk that a public hearing would contaminate evidence relevant to 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.
29. The Chair invited submissions from the representatives of Core Participants and other interested parties. On 11 April 2017, the Chair gave her determination in relation to these three issues confirming her provisional determination. The Chair noted that she would continue to review the progress of the IOPC investigation and that she did not rule out the possibility that any public hearings in the investigation could commence before the IOPC had concluded all of its work.
30. At that stage, the IOPC anticipated that its investigation would be concluded by the end of 2018. The IOPC provided updates to the Inquiry of the progress of the investigation, and the Inquiry in turn regularly informed Core Participants of the position. A preliminary hearing listed for 23 May 2019 was vacated because the IOPC investigation had not concluded. During the two year period from April 2017, the Inquiry refrained from much investigative work in order to allow the IOPC to complete its investigation. This was in keeping with the Chair's Provisional

Determination, and in particular the requirements to avoid risking prejudice to ongoing investigations, to avoid distressing witnesses, and to minimise duplication of work.

31. On 15 April 2019, the Inquiry told Core Participants that the IOPC had informed it that, while it had completed its interviews of complainants of abuse and re-interviewed a number of the officers subject to its investigation, it expected to submit its report to its Decision Maker under paragraph 22(5) of Schedule 3 to the Police Reform Act 2002 by 30 June 2019. After that date, there would remain a number of internal steps that it must complete before it would be in a position to provide the Inquiry with its report, including the resolution of the question of whether a referral would be made to the CPS under paragraph 23(2)(d) of Schedule 3 to the Police Reform Act 2002. It expected its Decision Maker to reach a conclusion on that question by 31 July 2019.
32. On 4 June 2019, the Solicitor to the Inquiry wrote to the IOPC emphasising the importance of the IOPC adhering to the dates it had set. He made it clear that any delay to the IOPC's own decision-making process would inevitably have an impact on the Inquiry's work programme.
33. On 19 June 2019, the IOPC wrote to the Inquiry. It said that there had been a delay to the final report being submitted to its Decision Maker and that this would not be done by 30 June 2019. The reason for this was that there had been a delay in obtaining a signed statement from a key witness to the investigation and a decision had been taken that it was necessary to provide some further disclosure to two of the subjects. A short period of time to allow the subjects to respond was to be permitted. It stated that it did not anticipate that it would impact on the ability of the IOPC Decision Maker to make the decision on whether or not to refer any matter to the CPS by 31 July 2019.
34. On 11 July 2019, the IOPC wrote to the Inquiry. It said that the quality assurance process for its report was not yet complete and additional time was required to complete further work to ensure that all of the underlying evidence obtained in the investigation was fully reflected in its report. As a result, it was unlikely that the Decision Maker would be able to decide whether or not to refer any matter to the CPS by 31 July 2019 as previously expected.
35. On 12 July 2019, the Solicitor to the Inquiry wrote to the IOPC. He stated that 9 August 2019 was the latest date by which the Inquiry must be (a) informed whether or not a referral was to be made to the CPS; and (b) provided with a copy of the final report. After this date, there would not be sufficient time either for Counsel to the Inquiry to prepare submissions or for the report to be considered and redacted, and for both to be served on Core Participants allowing them a fair opportunity to respond in time for the preliminary hearing in September.
36. On 9 August 2019, the IOPC wrote to the Inquiry providing it with a copy of the report. It also informed the Inquiry that the Decision Maker had made the decision to refer one individual to the CPS in relation to potential criminal offences and that

further decisions in relation to other individuals were still under consideration. The Decision Maker had not yet reached any decisions in relation to whether any individuals may have behaved in a manner which would justify the bringing of disciplinary proceedings. As a result, its statutory procedures were not complete but it hoped that all decisions on any referrals to the CPS would be made by 23 August 2019.

37. The Inquiry understands that one individual has been referred to the CPS for consideration of whether criminal proceedings should be brought. In light of this, the concerns identified by the Chair at sub-paragraph (c) of the determination (above) remain “live” until a decision has been made by the CPS and any appeal rights arising from that decision have been exhausted.

Next steps

38. The CPS will now need to perform its statutory functions and consider whether or not any prosecution will be brought. Given the complexities and volume of material, any decisions are likely to take some time.
39. The Inquiry will not be able to carry out the steps that it needs to complete in order to prepare for a hearing until this process concludes for the reasons set out by the Chair in her determination (as set out at sub-paragraph c. of paragraph 28 above). In particular, the Inquiry will be limited in the requests it can make for statements from individuals who are the subject of the IOPC’s investigation, and in the disclosure that it can make to Core Participants.
40. The Inquiry has invited submissions on whether the February 2020 date for the public hearings can be maintained. The paragraphs that follow consider the position if the Chair determines that the public hearings cannot take place at that time.
41. If the CPS is able to complete its work and make decisions on whether or not prosecutions are to proceed and notify the Inquiry by **6 January 2020**, and the decision is not to prosecute any individual, then it may be possible to schedule a hearing to take place in October 2020. The Inquiry acknowledges that certain Jewish festivals fall during October 2020, and will invite submissions from Core Participants in due course regarding the suitability of the period or any days during the period on which hearings could not be held. Given the complexities and the Inquiry’s work programme and the interdependencies when scheduling hearings, no other investigation hearing window is possible if the Inquiry is to complete its hearings as planned by the end of November 2020.
42. If the investigation hearing were to be rescheduled in October 2020, there would necessarily be an impact on other aspects of the Inquiry’s work programme. With sufficient notice and planning, despite significant disruption to the work programme, such a hearing could be accommodated without a significant adverse impact on the likely publication date of the Inquiry’s Final Report.

43. The same is not true if an investigation hearing were scheduled **later than** October 2020. Any investigation hearing after this date would delay writing and publication of the Final Report and the conclusion of the Inquiry's work, most likely by a number of months.
44. Significant concern was expressed in the early stages of the Inquiry about its ability to deliver its terms of reference in a sufficiently timely way. In particular, the Report of the Home Affairs Select Committee dated 22 November 2016 criticised what it decried as the Inquiry's 'slow progress' and the need for it to inspire confidence in the victims and survivors of child sexual abuse and the public in its ability to deliver its objectives in a timely and effective way. Since then, the Inquiry has published its hearing programme and kept to key dates without exception, save in this investigation where external events relating to the IOPC's work have caused delay.
45. The Inquiry necessarily uses public funds to operate. Any delay to the conclusion of its work would entail a significant financial cost.

Martin Smith (Solicitor to the Inquiry)
30 August 2019