



# INDEPENDENT INQUIRY CHILD SEXUAL ABUSE

## NOTICE OF DETERMINATION RE: APPLICATIONS FOR RESTRICTION ORDERS BY PR-X1, PR-X2 and PR-X3

### Introduction

1. On 18 November 2019, PR-X1 and PR-X2 applied for a restriction order pursuant to s. 19 (1) and (2) (b) Inquiries Act 2005. An application in similar terms was made by PR-X3 on 19 December 2019.
2. PR-X1, PR-X2 and PR-X3 are witnesses providing evidence to the Inquiry in the form of written statements and documents. The current applications are made to protect their identification and the identification of any individuals to whom they refer in any document, oral evidence, transcript of proceedings, as well as the Inquiry's investigation and Final Reports. They also ask that their identities are not disclosed to the Christian Congregation of Jehovah's Witnesses (the 'CCJW'), who are core participants in this investigation.

### Application by PR-X1 and PR-X2

3. The application by PR-X1 and PR-X2 is made on the basis that both PR-X1 and PR-X2 were, for decades, involved with, and held roles within, the Jehovah's Witnesses. It is said that if the restriction order was not granted, and PR-X1 and PR-X2 were named publicly, their access to evidence and material which may be of relevance to this investigation would be significantly inhibited.
4. They submit that those named within their witness evidence may also risk being ostracised and/or subject to "disfellowshipping" within the Jehovah's Witness community.
5. It is also said that they and their wider family, some of whom are still Jehovah's Witnesses, may be subject to ostracism, disfellowship or harassment if their identities are revealed. They state that they may be the subject of harassment and/or abusive



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conduct by other Jehovah's Witnesses who will not wish them to speak about the organisation in a public forum or consider it a sin to do so.

6. PR-X1 and PR-X2 provided their own account of their concerns. They also rely upon a witness statement from an American former Jehovah's Witness who described her ostracism. They also provided evidence from an English person, known to the Inquiry as PR-H1, a former Jehovah's Witness, who feared that she would be subject to further ostracism, and that this would also extend to her family, many of whom are still Jehovah's Witnesses, if she were identified. Her son has been sexually abused and so she is concerned about the effect that their identification would have on him.

## **Application by PR-X3**

7. PR-X3's application is put on the basis that she was a Jehovah's Witness, though members of her family remain Jehovah's Witnesses. She wishes to provide a witness statement to the Inquiry about her treatment, and that of her family in respect of allegations of child sexual abuse, and to talk about her experience, and the workings and processes of the Jehovah's Witnesses.
8. She relies on what she says are instances of harassment and harm that she and her extended family have experienced within the closed section of her application. She describes experiencing hostility and recrimination from some members of the Jehovah's Witness community.

## **Response to the applications**

9. The application of PR-X1 and PR-X2 was circulated to core participants on 22 November 2019.
10. Responses were received from Thirtyone:eight and Slater and Gordon, who supported the application. The CCJW opposed the application on the basis that:



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- (a) A restriction order was not necessary as the fears expressed within the application are groundless and contrary to the CCJW's teaching.
  - (b) The evidence provided by PR-X1 and PR-X2 was supposition, consisting of stale evidence from the US about a situation nearly 20 years ago and so was obsolete.
  - (c) The information was not sufficient to outweigh the unfairness to the CCJW.
11. It was also submitted on behalf of the CCJW that, even if anonymity was granted to PR-X1 and PR-X2, the legal representative for the CCJW should know of their names so that he may "probe" the allegations made.
12. PR-X3's application was circulated together with my provisional decision indicating that I was minded to grant the applications on 20 December 2019.
13. In further written submissions dated 7 January 2020, the CCJW submitted that the applications indicated that some of the material provided by PR-X1, PR-X2 and PR-X3 may have been provided in breach of a confidence owed to the CCJW. They requested the opportunity to review the relevant material prior to its disclosure to core participants.
14. I heard oral submissions on these applications at a preliminary hearing on 14 January 2020 from Counsel to the Inquiry, Ms Fiona Scolding QC, and Mr Shane Brady on behalf of the CCJW.

## **Restriction Orders**

15. Section 18 of the Inquiries Act 2005 provides that I must take such steps as I consider reasonable to ensure that members of the public (including reporters) are able to attend the Inquiry or see or hear a simultaneous transmission of its proceedings and obtain or view the evidence or documents given at the Inquiry. However, where it is necessary in the public interest to do so, I may make an order



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under s.19 of the 2005 Act placing restrictions on such open access to the proceedings and its evidence.

16. Section 19 of the Inquiries Act 2005 provides that:

*(1) Restrictions may, in accordance with this section, be imposed on -*

- (a) Attendance at an inquiry, or at any particular part of an inquiry;*
- (b) Disclosure or publication of any evidence or documents given, produced or provided to an inquiry.*

*(2) Restrictions may be imposed in either or both of the following ways -*

*(b) by being specified in an order (a 'restriction order') made by the chairman during the course of the inquiry.*

17. Section 19 (3) makes it plain that a restriction order must specify only such restrictions as I consider 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 s.19 (4). Those matters are -

- a. The extent to which any restriction on attendance, disclosure or publication might inhibit the allaying of public concern;
- b. Any risk of harm or damage that could be avoided or reduced by any such restriction. Harm or damage includes death or injury and damage to national security or international relations;
- c. Any conditions as to confidentiality subject to which a person acquired information that he is to give, or has given to the Inquiry;
- d. The extent to which not imposing any particular restriction would be likely -



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- (i) to cause delay or to impair the efficiency or effectiveness of the inquiry or
- (ii) otherwise to result in additional cost (whether to public funds or to witnesses or others).

## My decision

18. Having carefully considered the applications before me in light of the provisions of section 18 and 19 of the 2005 Act, I am satisfied that a restriction order is necessary in the public interest.
19. I note, in particular, that were PR-X1, PR-X2 and PR-X3 to be identified by the CCJW this may impair the efficiency or effectiveness of the Inquiry to conduct its investigation. It would inhibit the willingness of these witnesses to provide information relevant to this investigation to the Inquiry or and/or for it to be used in these proceedings at all because of their fear of retribution.
20. If the fear of the risk of harm or damage is honestly held, then subjective fears can be taken into account, even if not well founded (*In re Officer L* [2007] UKHL 35 at [22]). Consistent with the approach which has been taken in civil courts, it is not necessary for me to adjudicate upon the objective validity of the fears expressed (*Kalma v African Minerals* [2018] EWHC 120 at [33-34]).
21. Further, this is an inquisitorial process undertaken by the Inquiry. It is not the role of the CCJW to “probe”, investigate or seek to undermine the evidence provided as part of these applications such that disclosure of the witnesses’ names to the CCJW’s representatives is required.
22. Accordingly, I make an order in the terms set out in **Appendix 1**.

**Professor Alexis Jay OBE**  
**Chair, Independent Inquiry into Child Sexual Abuse**

**7 February 2020**