

IICSA INDEPENDENT INQUIRY INTO CHILD SEXUAL ABUSE

INVESTIGATION INTO CHILD PROTECTION IN RELIGIOUS ORGANISATIONS AND SETTINGS

SUBMISSIONS ON BEHALF OF THE UNITED SYNAGOGUE

Introduction

1. These submissions are served by the United Synagogue (the 'US') in response to the note from the Inquiry, dated 27th March 2020 (the 'Note'), in which the solicitor to the Inquiry:-
 - a. Set out a number of technical mechanisms which it was suggested could enable the module concerning the investigation into Child Protection in Religious Organisations and Settings to proceed by way of remote hearing; and
 - b. Invited Core Participants to provide any written submissions in response to the suggestions by 31 March 2020.
2. The US recognises the difficult position in which the Chair and Panel now find themselves, having to determine whether to proceed virtually, or to delay hearings due to have been completed or heard within the next few months.
3. The US has at all times cooperated fully with the Inquiry Team. Detailed statements setting out responses to requests under Rule 9 have been supplied, and relevant documentary material has been provided. This reflect the US' commitment to assisting the Inquiry in its important work in helping organisations safeguard children.
4. It is against this background that these submissions as to the timing of the hearing of this module are made.

5. The US's position is, in summary, that the adjourned hearing should not go ahead on 20th April for the following two key reasons:- (i) the resources of the US are fully committed to responding to this public health crisis, and (ii) the proposed arrangements for a virtual hearing are untested and pose a number of insurmountable problems.

COVID-19: - the impact on the US

6. As the Inquiry recognises, the COVID-19 pandemic is having a significant impact on all those involved with the Inquiry. Whilst this is plainly correct, it needs to be borne in mind that the impact on charities such as the US is particularly acute.
7. In this time of national emergency member looks to the US for support and assistance in dealing with the demands of responding to the COVID-19 pandemic. As such, the US needs to be able to commit all available resources to help their members in this hour of need. With this in mind, it is important to recognise that any adverse impact on the resources available to the US has significant ramifications for the wider US community who are reliant on the assistance (both practical and spiritual) provided by the US.
8. In light of the need to close US Synagogues, the US is endeavouring to service our members by alternative means. This requires the full - time engagement of the available US staff (many of whom have been reallocated to roles specific to responding to the crisis). To give a few examples, US staff are liaising with the numerous US Synagogues and coordinating volunteers to contact and assist our many elderly and vulnerable members. The Office of the Chief Rabbi is liaising with Government about issues affecting the Jewish Community and our Dayanim and Rabbis are providing religious advice on the numerous questions which have arisen as a result of the suspension of so many religious activities.

9. This huge response is overseen by the US Chief Executive (who is the US witness to the Inquiry) who, as is his way, is taking a hands on approach and is involved in every aspect of the US response.
10. These demands on US resources need to be seen in the context of the high level of sickness absence and staff having to self-isolate. This trend will only increase over the next few weeks and months, thereby further reducing the resources available to the US to respond to the crisis, which in turn will further increase the demands on the staff available.
11. These (increasing) reductions need also to be considered in the context of the fact that the COVID-19 pandemic is likely to peak over next 6 weeks, and thus the period when the demands on increasingly stretched resources are likely to be at their highest. Furthermore, the situation will be particularly acute from next week when the major Jewish festival of Passover commences.
12. Against this background, the US turns to the specific issues raised by the Inquiry.
13. Can and should the hearing on 20 April be held remotely as set out in the Note: - it is respectfully submitted that, before it is possible to say whether the hearing could proceed remotely, there would need to be a series of tests and 'trial runs' to verify that the suggested technological solution does, in practice, delivers as expected. Until such testing has been done from the premises of a range of Core Participants and witnesses across the country it is simply not possible to:
 - a. Say whether the proposed system has the necessary resilience (or whether broad band coverage in the geographical areas is sufficient).
 - b. Determine the impact of the inevitable delay that adopting such a system will have on the duration of the hearing (and, in particular whether the hearing can be completed in two weeks, and the uncertainty caused to the scheduling of witnesses).

14. The importance of the Inquiry proceeding with hearings needs to be weighed against the risk of seeking to hold a hearing with an untried technological system which has, even if it works as planned, significant short-comings (in particular the inability to delay transmission to ensure that restriction order are not breached). Given the current time-critical demands placed on the resources of US there is a compelling need to ensure that resources are not expended in preparing for a hearing that may well not in practice be able to proceed (or which takes longer than two weeks).

15. Furthermore, there are significant questions marks as to the appropriateness and risks of the suggested system. Firstly, there are the practical challenges for witnesses giving evidence from their homes. These range from difficulties connecting with the system to maintaining a confidential private space in which to give evidence (and thus risk children/family members hearing details of abuse which victims have kept private). Second, witnesses giving harrowing accounts of highly distressing events will not have the benefit of welfare support (from people present to listen and help them). Third, those with families will be faced with having to prepare and give their evidence at a time when they are facing the challenge of providing child care/home schooling to their children.

16. Additional concerns that arise for proceeding with the hearing in April – June 2020 include: -
 - a. First, the very real risk that some (if not many) witness and/or those involved in the Inquiry may have (or being recovering from) the COVID-19 virus (and as such either not be able to be involved in the hearing, or not have been able to prepare for it).
 - b. Second, key witnesses from many organisations are likely to be fully occupied with responding to the crisis. In the case of the US the Chief Executive, who as explained above is the witness due to give evidence to the Inquiry, is fully engaged in the effort to respond to the needs of members and to preserve the future of the Charity. It is unrealistic to expect that, given these pressing demands of his role, the Chief

Executive will be able to set aside the time needed to properly prepare for giving evidence to the Inquiry.

17. Based on these resource implications the US, whilst recognising just how important IICSA is to the survivors, Core Participants and the public at large, submits that the hearings should continue as soon as the current crisis has been brought under control and necessary technological systems have been fully tested.
18. Practical difficulties: - due to the current demands on the Chief Executive the US would have significant concerns in committing to its witness being available at any given time for a hearing listed before June. This is not intended to indicate a lack of respect for the Inquiry; rather it reflects the reality of the fast moving and wholly unpredictable nature of the responses that will be required over the next few months.
19. Alternative dates: - whilst no-one can predict how long it will take for the COVID-19 crisis to be brought under control, on any view of the current estimates this is unlikely to happen for a number of months. As such, precisely the same considerations as justify not holding the April hearing apply with equal force to the hearings in May/June 2020.
20. Section 18(1) of the 2005 Act: - pursuant to section 18 (1) the Inquiry Chair is required to take "such steps as [she] considers reasonable to secure that members of the public are able to ... hear a simultaneous transmission of proceedings". It is respectfully submitted that in discharging this obligation the Chair is required to ensure that proceedings are transmitted in a way that avoids breaches (whether inadvertent or otherwise) of restriction orders.
21. In practical terms this requires a delay in transmission. Without this it is inevitable that there will be multiple inadvertent breaches of restriction

orders¹, with the identities of those who have suffered abuse and other highly sensitive material being made public. This will not only cause huge distress to victims but may also give a risk of harm to those identified. In addition, as the Inquiry recognises, there is the risk for those who commit inadvertent breaches that may find themselves accused of a criminal offence (contrary to section 1(1) of the Sexual Offences (Amendment Act) Act 1992).

22. The protective measures suggested by the Inquiry do not, it is submitted, adequately address these very serious potential consequences (both for those whose identity is protected and for those who inadvertently breach the restriction orders). Even if the Chair were able to make a swift restriction order preventing re-publication of the information, the identity of the victim and/or protected information would already be in the public domain.
23. In these circumstances the US considers that the Inquiry should not proceed with further hearings until an effective means for ensuring the confidentiality of those protected by the restriction orders has been identified.

Conclusion

24. For all these reasons the US invites the Inquiry not to hold a hearing of this module in April – June. This, it is submitted, would best serve the public interest by both supporting the charity in responding to the current national emergency, whilst at the same time ensuring that the Inquiry benefits from the fuller assistance which can and will be provided by the Chief Executive when the demands on his time have diminished.

Alan Payne QC

¹ The Chair will recall that on the first day of the hearing the first witness inadvertently identified a number of people who had been granted anonymity and, had it not been possible to suspend the transmission, would thereby have breached the terms of the relevant restriction order

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31.03.20

