

**DETERMINATION FOLLOWING THE PRELIMINARY HEARING
IN THE CAMBRIDGE HOUSE, KNOWL VIEW AND ROCHDALE INVESTIGATION HELD
ON 20 SEPTEMBER 2017**

1. On 20 September 2017, there was a fourth and final preliminary hearing in the Cambridge House, Knowl View and Rochdale Investigation prior to the hearing in this investigation commencing on 9 October 2017. The purpose of the preliminary hearing was to finalise arrangements and, in particular, the witness list.
2. To that end, on 7 August 2017, the Solicitor to the Inquiry's ("STI") team circulated submissions from Counsel to this Investigation ("CTI") to all core participants. The purpose of those submissions was to set out CTI's provisional view as to the witnesses whose evidence should be called live in the course of the hearing or whose evidence was to be read. In respect of a number of witnesses, CTI did not express a firm view as to whether the witness should be called to give oral evidence or their evidence read in the course of the hearing.
3. The following representations were submitted in response to that provisional list.
 - (i) Letter of 18 August 2017 and submissions of 23 August 2017 from Slater and Gordon (solicitors for complainant core participants).
 - (ii) Rochdale Borough Council ('RBC') submissions of 25 August 2017
 - (iii) Lancashire Police submissions of 29 August 2017
4. In their submissions, Slater and Gordon sought to persuade the Inquiry that the scope of this investigation ought to be enlarged so as to encompass aspects of the Westminster Investigation (and which would necessarily require that additional witnesses be called). Rochdale Borough Council, in their written submissions, supported the enlargement of scope proposed by Slater and Gordon. I shall return to the issue of scope later in this ruling.

5. CTI, in turn, submitted a written response to the submissions received and attached a detailed table setting out CTI's views as to the various witnesses which Slater and Gordon proposed ought to be called. This table included setting out what those witnesses might be able to assist with and other evidence which would be called related to the issue (which it was proposed the witness could deal with).
6. I have considered with care all of the written submissions made.
7. Before setting out my ruling on the issues raised in the submissions and orally in the preliminary hearing, I make the following observations. The first is that this is not an investigation into Cyril Smith. It is an examination of how institutions in Rochdale responded to child sexual abuse (the preponderance of the evidence deals with events from the 1960s to the 1990s). It is important to set this investigation within the context of the overall Inquiry. It is one of three separate investigations being conducted by the Inquiry which is intended to focus upon local authority responsibility as regards the sexual abuse of children. Across all three of these investigations, the Inquiry has gathered evidence (which is often harrowing) of extreme sexual abuse suffered by children in the care of local authorities or who resided in institutions controlled by local authorities. These three investigations are a substantial undertaking. In order to make them effective, keep them focused and in order to achieve the objectives of the inquiry as a whole decisions have to be made as to scope and to the witnesses to be called in each investigation. It is not possible to examine every issue nor to call every complainant core participant or witness who was sexually abused as a child (regardless of how serious the abuse they may have suffered) in each investigation. There is a separate way in which the Inquiry will hear from any victim or survivor of child sexual abuse who wishes to share their experience, and that is via the Truth Project.
8. When the scope of each investigation was drawn up, careful consideration was given to how each investigation complemented other investigations and how they contributed to the Inquiry as a whole.
9. Besides the allegations against Cyril Smith, this investigation is concerned with evidence that children in Rochdale (including Knowl View School pupils) were being exploited by paying adults in public toilets in Rochdale (and the extent to which this was known about by Rochdale Borough Council and other public authorities); evidence that a known paedophile sexually assaulted pupils from Knowl View School

(and yet was able to persist in targeting the school); evidence about the particular risks that vulnerable children are at of sexual abuse; and finally evidence that 'peer on peer' abuse within Knowl View School was known about (and may have been inadequately responded to). These are all serious issues which the Panel wishes to explore and which will assist it as the Inquiry progresses (in particular in considering the risks that pertain to children in residential settings). There is a substantial amount to get through in the three weeks available for this public hearing.

10. I note that a considerable part of the provisional timetable for the hearing does deal with the allegations against Cyril Smith. Every core participant who has alleged that they were sexually abused at either Cambridge House or Knowl View School has been afforded the opportunity to give evidence in the hearing. As regards Cyril Smith, as well as the evidence which will be called from CPs, witnesses will be called from Lancashire Police, Greater Manchester Police and the Crown Prosecution Service in order to provide evidence about the criminal investigations into Smith and the different prosecutorial decisions which were made about him. Further evidence will also be called about the allegations made against Smith in the Rochdale Alternative Press in 1979. I expect that witnesses from the council will be asked about their knowledge of Smith and their dealings with him (as too will the politicians who will be called in the final week of the hearing).
11. The investigation has disclosed some eleven thousand pages of evidence, much of it contemporaneous documentation. I anticipate that much of the Panel's analysis of the institutional responses, in this investigation, will draw upon those contemporaneous materials.

Preliminary Hearing on 20 September 2017

12. I turn then to the preliminary hearing on the 20 September 2017. CTI, Mr Brian Altman QC, made brief oral submissions on the basis that CTI had set out a full written response to the submissions made by Slater and Gordon and Rochdale Borough Council. Rochdale Borough Council did not seek to press its submissions as to scope and witnesses. Ms Hoyano (instructed by Slater and Gordon on behalf of the complainant core participants) made oral submissions (which developed the submissions already made in writing) and which may conveniently be summarised as follows:

(i) That the scope of the investigation ought to be enlarged so as to include the selection of Cyril Smith as a parliamentary candidate by the Liberal Party in 1970 whilst the police investigation into him was extant;

(ii) That the Inquiry should give an indication of the timing of the Westminster hearing;

(iii) That the Cyril Smith aspect of the Westminster investigation should be expedited in that it should be dealt with in a separate hearing which takes place as soon as possible;

(iv) That those represented by Slater and Gordon in this investigation should not have to wait until after they have given evidence, in this hearing, to be informed whether they will be core participants in the Westminster investigation;

(v) That those represented by Slater and Gordon should not later be penalised in the Westminster investigation (if they are granted core participant status), if Ms Hoyano does not ask questions in this investigation, which ought to be asked in the Westminster investigation.

13. Ms Hoyano also made further submissions about witnesses who she submitted should be called in the course of the hearing. Specifically, she submitted that the following witnesses ought to be called to give oral evidence.

(i) William Lawley

(ii) Eileen Kershaw

(iii) RO-A3

14. During the course of the hearing I gave Ms Hoyano the opportunity to make further written submissions as to why these witnesses ought to be called.

My decision

15. I turn first to the issue of scope. I will not repeat the detail of Ms Hoyano's submissions. Her primary point is that there is evidence that the national leadership of the Liberal Party interfered in the local selection process of the parliamentary candidate for Rochdale in 1970 so as to ensure that the candidate was Cyril Smith. She contends that because this interference was at a local level the selection of Cyril

Smith ought to be within the scope of this investigation. I assume that in making this submission she accepts that that if parliamentary selection of Smith is within the scope of this investigation it would be outside the scope of the Westminster investigation.

16. I can state my view of this issue shortly. I do not agree that the scope of this investigation should be enlarged so as to enable the selection of Cyril Smith to be considered in the hearings in this investigation. I agree, for the reasons set out in CTI's submissions, that it would neither be principled nor practical to enlarge the scope of this investigation.
17. This investigation has always been focused upon local institutions and their responses to child sexual abuse. The delineation between this investigation and the Inquiry's Westminster investigation has been clear since the scope of each investigation was outlined in early 2016 . It is the Westminster investigation which has been charged with the examination of the conduct of national political parties or their leadership as regards allegations of child sexual abuse. The selection of a parliamentary candidate in the face of information that he was being investigated for child sexual abuse is a matter which would fall squarely within the ambit of the Westminster investigation. I entirely appreciate that this had a local impact and am willing to accept that this may have overridden the concerns of local party members. Ultimately what is of consequence (assuming Ms Hoyano's submissions to be factually correct) is that the leadership of the Liberal Party sanctioned Smith's candidacy.
18. This is not a matter which has only come to light following disclosure having been made in this investigation. It is well known that Smith was a parliamentary candidate in 1970. Even if the precise dates of when he became the candidate and when the investigation into him concluded were unknown, the mere fact that Smith was the candidate in the same year he was investigated inexorably raises a question of what the Liberal Party knew. In any event, regardless of when this became apparent, my decision would remain the same: the selection of a candidate for a by-election or a general election in the face of allegations of child sexual abuse, if it is to be examined by the Inquiry as I currently expect it will, is a matter for the Westminster investigation.

19. As regards the practicality of enlarging scope at this point, I am satisfied that this would seriously jeopardise the likelihood of this hearing starting on time or at all. If the selection of Cyril Smith as a candidate in 1970 was within scope, this investigation would have to seek evidence on that issue. It would also have to notify the Liberal Party that this matter now fell for consideration so that it may consider whether it wishes to apply to become a core participant. I make clear that I do not accept that it was incumbent upon the Liberal Party (or indeed any other political party) to seek CP status at an earlier stage in these proceedings given how clear it has always been that the selection of Smith as a parliamentary candidate was not within the ambit of this investigation.
20. For all of these reasons (and for the reasons set out in CTI's written submissions) I decline to enlarge the scope of this investigation.
21. That leaves Ms Hoyano's remaining submissions which, in reality, go to the future conduct of the Westminster Investigation. Again, these points can be dealt with shortly and I deal with each in turn. Before I do so, I wish to make clear that I sympathise with the complainant core participants about the length of time that they have waited to have a better understanding of the facts as directly related to them. I very much hope that their participation in this investigation and their ability (and that of their lawyers) to examine the documentary material provides some of the answers that they seek. I hope that it is clear to them how seriously the accounts of their experiences have been taken and the extent to which this has informed the disclosure exercise (and the content of the hearings in this investigation).
22. First, as regards the request that the Inquiry should give an indication of the timing of the Westminster hearing. The position is as described by CTI in the preliminary hearing. The inquiry is simply not in a position to announce the timing of hearings in the Westminster investigation. The inquiry intends to announce a timetable for the whole inquiry for the period from March 2018 to March 2019 in the near future. That timetable will take into account matters such as the readiness of investigations, how far disclosure has progressed, the need to prejudice any ongoing criminal investigations and the extent to which it is thought that certain investigations will benefit by coming later in the sequence of hearings. The Inquiry cannot pre-emptively announce a timetable for a single strand of the Inquiry without taking into account all of these different parts.

23. This also answers Ms Hoyano's second submission, that the Cyril Smith aspect of the Westminster investigation should be expedited (so that it is dealt with in a separate hearing which takes places as soon as possible). The Westminster investigation is at too early a stage to determine the content of its hearings (let alone whether it would be possible to divide up and fix an early date for one part of it).
24. Ms Hoyano's third submission is that the complainant core participants (where relevant to them) ought not have to wait until after they have given evidence, in this hearing, to be informed whether they will be core participants in the Westminster inquiry. Again, I do not accept that the Inquiry can preempt the proper process for the selection of core participants. I have to consider the number and nature of all the applications for core participant status and cannot determine CP status on an ad hoc basis.
25. Finally as regards Ms Hoyano's concern that the complainant core participants ought not be penalised in the Westminster investigation (should they be granted core participant status) if Ms Hoyano does not ask questions in this investigation, which ought to be asked in the Westminster investigation. I regard it as self-evident that no core participant could possibly be criticised in an investigation for not asking questions on matters which have expressly been said to be outside the scope of that investigation.
26. As regards witnesses, I agree with Ms Hoyano that it would be helpful to hear evidence from Ms Eileen Kershaw. Although I am unsure as to extent to which she may be able to give *direct* evidence of any approach made to the DPP by any individual on behalf of Cyril Smith, I would be assisted by any evidence that she might be able to give as to what assistance Cyril Smith thought he might be able to get from others.
27. I do not consider that the Panel would be assisted any further by calling Mr William Lawley as to the possible existence of the "Shipp Report". I do not regard this to be a central issue. The contemporaneous materials provide evidence as to what was known about either at the time or how it developed over time after September 1990. There are immediate accounts and accounts which were given in the longer term. The critical issue is how these were responded to. Mr Lawley has no specific recollection as to the content of any "Shipp Report" and Mr Shipp does not believe he wrote such a report. No party has suggested what might have been in any such

report that is not contained in any of the other accounts and reports generated at the time. It is not realistic to call Mr Lawley without also calling Mr Shipp and Mr Pierce. I do not regard it proportionate to call these witnesses to deal with the possible existence of a report (the content of which no witness can speak to).

28. I also refuse the application that a witness (who I will refer to as RO-A3) provide oral evidence of his experience of physical abuse at Cambridge House. I agree, for all of the reasons set out in Counsel to the Inquiry's written submissions, that his evidence can be adduced by way of a written statement.

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

27 September 2017