

**NOTICE OF DETERMINATION
SCOPE OF WESTMINSTER INVESTIGATION**

1. Following the Preliminary Hearing in the Westminster investigation held on 31 January 2018, I directed that by 4pm on 14 March 2018, any core participant who wishes to do so may file written submissions on the scope of this Investigation with the Solicitor to the Inquiry. This followed the submissions made by Counsel to the Inquiry at the Preliminary Hearing on the suggested scope. In those submissions Mr O'Connor QC identified six broad issues that he submitted should be explored by this investigation, each amounting to a strand of public concern relating to the way in which Westminster institutions have historically addressed or responded to issues of child sexual abuse. The six broad issues were as follows:
 - a. **Police investigations.** Concern that police investigations into cases of possible child sexual abuse linked with Westminster may have been the subject of inappropriate interference;
 - b. **Prosecutorial decisions.** Whether there are cases in which prosecutorial decisions in child sexual abuse cases have been the subject of improper influence from within the Westminster establishment;
 - c. **Political parties.** The way in which political parties, and in particular the leadership of those parties, have reacted to allegations of child sexual abuse made about individuals within their own parties;
 - d. **Whips' Offices.** The activities of the Whips' Offices of the various parties in parliament;
 - e. **The honours system.** The honours system, a system operated on behalf of the Crown by senior politicians and civil servants within the Westminster establishment, and in particular concerns about honours granted to individuals who had been accused of child sexual abuse or where allegations of this nature were made after the honour had been granted;
 - f. **The Paedophile Information Exchange, commonly known as PIE.** The key issues of public concern in relation to PIE are its membership, which appears

to have included senior members of the Westminster establishment, and the suggestion that the organisation may have been funded by the government.

2. I received a number of responses from Core Participants; other Core Participants confirmed that they did not wish to make submissions on scope. The Commissioner of the Police of the Metropolis endorsed the approach proposed by Counsel to the Inquiry, including in regard to the issues which would not be pursued as part of the Westminster investigation, and welcomed the proportionate approach proposed. The Crown Prosecution Service agreed with the proposed approach and shared observations about the need to refine focus. The Home Office, Independent Office for Police Conduct (IOPC) and Wiltshire Police confirmed that they did not wish to make submissions on the scope of the investigation. I also received submissions on behalf of Ms Esther Baker, Mr Tim Hulbert and complainants alleging child sexual abuse by the late Cyril Smith MP, which I address below.
3. On behalf of Esther Baker, it was submitted that the allegations which she has made should form part of the Westminster investigation. Ms Baker alleges that she was sexually assaulted by her father and by persons of public prominence associated with Westminster and that there were institutional failings in connection with that alleged abuse by police and law enforcement services. She says that her father introduced her to a paedophile ring which included persons of public prominence associated with Westminster. She also says that she was abused from the age of 8 to around age 12 and that the abuse was organised and sometimes ritualistic, that it was filmed, and that the police acted in a security role. She says that at various times she tried to report the abuse but was not believed, or the complaints were not effectively dealt with by the authorities, and as such there were institutional failings.
4. I have decided that the Inquiry will not investigate the issues that Ms Baker has raised that relate to her own alleged experiences of child sexual abuse. I do of course have a very broad discretion in determining which issues will and will not be investigated by the Inquiry. I accept the submissions made by Counsel to the Inquiry that considerations of proportionality are of great importance in this regard, in particular given the wide scope of this investigation and the limits to the time and resources that the Inquiry is able to devote to it.

5. Ms Baker's allegations are highly contentious. They are the subject of both contested civil proceedings and an ongoing police investigation. I am also aware that Mr Hemming is reported to have made a complaint to the CPS that the allegations that Ms Baker has made about him amount to perverting the course of justice. The fact that both the police investigation and the civil proceedings are ongoing is a factor that weighs strongly against the Inquiry attempting to investigate these matters. Even if it were appropriate for the Inquiry to investigate these matters before the conclusion of the other proceedings, such an investigation would be extremely resource intensive and would be likely to distract the Inquiry's attention from the six core issues set out above. Those issues all concern general questions as to institutional responses to child sexual abuse, and I accept Counsel to the Inquiry's submissions that it is on such institutional matters that the Inquiry's Terms of Reference require it to focus. Ms Baker's primary concern, as I apprehend it, is that the Inquiry should adduce evidence about and make findings of fact that go to the truth or otherwise of her allegations of having been the victim of child sexual abuse. That is to misunderstand the Inquiry's function, which, as Counsel to the Inquiry submitted, is to investigate institutional failings, and not to determine disputed facts on individual cases, and that is a further reason why I have decided to reject the submissions made on behalf of Ms Baker.
6. I would add that I have considered whether it might be appropriate to investigate the allegations that Ms Baker has made of institutional failings (for example, the police's alleged failure to investigate her claims properly) without also investigating the details of her underlying claims of having suffered child sexual abuse. Although that is an approach that the Inquiry is taking in other cases, I do not think that it is practical here. In Ms Baker's case, the issues of potential institutional failings are very closely bound up with her underlying allegations of abuse. It would not be practical or proportionate to attempt to separate one from the other.
7. The submissions made on behalf of Ms Baker also referred to events outside the United Kingdom allegedly involving child sexual abuse and invited the Inquiry to consider these as part of the Westminster investigation. In summary, Ms Baker says that as a child she visited a foreign country and stayed at the house of a relative of a person of public prominence associated with Westminster where she was shown a room full of young girls and was sexually assaulted by her host. She alleges that her parents worked with orphanages in the country concerned, in conjunction with her

host, and she assumes that visits by politicians and others in a position of power both in the past and to the present day have involved the abuse of young children. On behalf of Ms Baker it is submitted that investigation of the links between Westminster and the foreign country can be conducted if her allegations are considered as part of the scope of the investigation.

8. The focus of this investigation is on how Westminster institutions responded to allegations of child sexual abuse and exploitation. It is not intended that the Westminster investigation should consider matters outside the United Kingdom. The Inquiry's Terms of Reference relate to institutional failings in England and Wales, and the Inquiry has a separate investigation which is examining the extent to which institutions and organisations in England and Wales have taken seriously their responsibility to protect children outside the United Kingdom from sexual abuse. Accordingly the Westminster investigation will not consider these matters, but will focus as explained on alleged institutional failings within England and Wales connected with Westminster.
9. On behalf of complainants alleging child sexual abuse by the late Cyril Smith, former Liberal Party MP, it was submitted that the six issues identified should include consideration of evidence relating to Mr Smith, as a prime example of many of the issues, and as these aspects were not fully addressed as part of the Inquiry's investigation into Cambridge House, Knowl View and Rochdale. I consider that these submissions do not in substance affect my determination of the scope of the investigation, given they endorse the relevance of the six issues identified. I note that matters relating to Mr Smith were identified by Counsel to the Inquiry at the Preliminary Hearing in relation to a number of the issues outlined. It will be a matter for the Inquiry team to consider what evidence to call on these issues in due course.
10. For completeness I also refer to the submissions received from Mr Tim Hulbert. In his submissions Mr Hulbert did not address the content of the six issues identified but addressed Counsel to the Inquiry's proposed approach to the findings of previous inquiries, in particular those into the Paedophile Information Exchange (PIE). At the Preliminary Hearing Counsel to the Inquiry suggested that as a matter of general principle, the investigation should aim to bring together the findings of various previous inquiries, that such an exercise of aggregation would be a valuable task and

that it would provide a foundation for the further work of the investigation. Counsel to the Inquiry noted that criticism has been made of some of the findings but that the Inquiry would need to think most carefully about issues of proportionality before re-opening and re-examining previous findings. In his submissions in response, Mr Hulbert has made suggestions about how the Inquiry should approach this aggregation process with a view to ensuring accuracy, avoiding unnecessary repetition and ensuring transparency. I do not consider that these suggestions affect my determination of the scope of the investigation, but I have noted the suggestions and the Inquiry will of course consider carefully how best to approach their task of bringing together the findings of previous inquiries.

11. In conclusion I confirm that the Inquiry will investigate the six issues identified by Counsel to the Inquiry as part of the Westminster investigation. I will of course keep an open mind, as the investigation develops, about whether further issues need to be added to the investigation's scope.

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

8 May 2018