



# INDEPENDENT INQUIRY CHILD SEXUAL ABUSE

## NOTICE OF DETERMINATION CORE PARTICIPANT APPLICATION

1. On 30 August 2017 the Inquiry invited anyone who wished to be designated as a core participant in the Westminster investigation to make an application to the Solicitor to the Inquiry by 27 October 2017. A number of applications were received and determined. Two preliminary hearings have been held, the first on 31 January 2018 and the second on 30 October 2018. Substantive hearings are due to take place over three weeks in March 2019.
2. On 19 December 2018, the Inquiry received an application made by Howard Kennedy Solicitors on behalf of Mr Harvey Proctor for core participant status in the Inquiry's Westminster investigation and for Mr Mark Stephens CBE to be his recognised legal representative..
3. Applications for core participant status are considered under Rule 5 of The Inquiry Rules 2006 which provides:

*(1) The chairman may designate a person as a core participant at any time during the course of the inquiry, provided that person consents to being so designated.*

*(2) In deciding whether to designate a person as a core participant, the chairman must in particular consider whether –*

*a. The person played, or may have played, a direct and significant role in relation to the matters to which the inquiry relates;*

*b. The person has a significant interest in an important aspect of the matters to which the inquiry relates; or*

*c. The person may be subject to explicit or significant criticism during the inquiry proceedings or in the report, or in any interim report.*

*(3) A person ceases to be a core participant on –*

*a. the date specified by the chairman in writing; or*

*b. the end of the inquiry.*



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4. In determining the application, the matters listed in Rule 5(2) must be considered, but the list is not exhaustive and other relevant matters can also be taken into account.
5. I make it clear at the outset that I have decided to grant this application. Mr Proctor will have core participant status in the Westminster investigation.
6. As will be apparent from the chronology given above, Mr Proctor's application was lodged more than a year after the deadline for core participant applications in this investigation. Notwithstanding the delay, I have a discretion pursuant to Rule 5(1) to designate a core participant "*at any time*" during the course of the Inquiry. Mr Proctor's application explains that the delay was due to the position he was left in following what Sir Richard Henriques described in his report as '*the emotional turmoil and distress*' faced by him and others against whom allegations had been made during Operation Midland. I accept that explanation. I also note that the delay has not caused prejudice to the work of the Inquiry. I have not therefore taken the delay into account in making my decision. I only add that Mr Proctor's delay in engaging with the Inquiry has deprived him of the opportunity to take part in the process of shaping the scope of this investigation, a point to which I shall return below.
7. The basis on which I grant this application is that the Inquiry will, in the course of investigating the conduct of a number of historic police investigations, hear evidence of allegations of sexual abuse that have been made against Mr Proctor. This evidence will not include the allegations made by Carl Beech (aka 'Nick') that led to Operation Midland, but will include, as Mr Proctor's application anticipates, allegations connected with Elm Guest House. I emphasise, as Counsel to the Inquiry has made clear at both of the preliminary hearings referred to above, that in this investigation the Inquiry will not be seeking to establish the truth or otherwise of allegations of this nature. But I do accept that the fact that these allegations will be aired gives Mr Proctor a significant interest in the investigation, which justifies granting him core participant status.
8. I should add, for completeness, that Mr Proctor's application asserts that he is entitled to core participant status on a number of other grounds. I do not find the



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other grounds persuasive. For example, Mr Proctor asserts that he:

“... has a significant interest in the matter to which the enquiry [sic] relates, namely the ‘paedophile ring’ in Westminster Dolphin Square of which he has been alleged to be a member. Unlike all the other core participants he is a living victim of false allegations and can thus provide evidence of a dimension the enquiry [sic] cannot otherwise obtain about the need to conduct police investigations with respect to suspects rights and the dangers of media pressure on policing in this area. The enquiry [sic] must recognise the dangers of media-led, reckless police operations because if police and DPP failings in the investigation of false allegations are replicated in respect of allegations that are true, then it is likely that child molesters will not be apprehended, that police will not find corroborated evidence against them and will lose the public confidence that is necessary to encourage victims to come forward. Mr Proctor can also give evidence of political intervention with police that put pressure on them to make bad investigative judgements, namely Tom Watson’s interventions.”

Counsel to the Inquiry made it clear at the October 2018 preliminary hearing (as recognised in other sections of Mr Proctor’s application) that the Dolphin Square ‘paedophile ring’ allegations made by Carl Beech will not form part of the Westminster investigation. At the earlier January 2018 preliminary hearing, Counsel to the Inquiry submitted that issues concerning the treatment of those accused of child sexual abuse offences should not form part of the Westminster investigation; none of the core participants resisted this submission and preparations for the hearings have proceeded on that basis. Issues relating to the media reporting of such allegations were removed from the scope of the Westminster investigation in the summer of 2017 - again, without any contrary submissions subsequently being made by core participants. For these reasons, the submissions that I have cited above do not raise issues that fall within the scope of the investigation, and therefore do not take Mr Proctor’s application any further.

9. With the hearings in this investigation due to commence in only a few weeks’ time, it is far too late to revisit questions as to its proper scope. It is an unfortunate consequence of Mr Proctor’s delay in making this application that he will not have the opportunity to contribute to the debate as to the proper scope of the investigation. Had Mr Proctor made this application earlier, he would of course have been able to do so.



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10. Finally, I have noted in particular the reference in Mr Proctor's application to the fact that, whilst in the past he did not have trust in the Inquiry "*as it went through its initial difficulties*", he "*now does trust it and wishes to assist it*". I am pleased by that indication, and I am sure that the Inquiry will benefit from Mr Proctor's assistance.

11. Applications for designation as the recognised legal representative of a core participant are governed by rules 6 and 7 of the Inquiry Rules 2006, which provide as follows:

6(1) Where -

(a) a core participant, other than a core participant referred to in rule 7;

or

(b) any other person required or permitted to give evidence or produce documents during the course of the inquiry, has appointed a qualified lawyer to act on that person's behalf, the chairman must designate that lawyer as that person's recognised legal representative in respect of the inquiry proceedings.

7(1) This rule applies where there are two or more core participants, each of whom seeks to be legally represented, and the chairman considers that -

(a) their interests in the outcome of the inquiry are similar;

(b) the facts they are likely to rely on in the course of the inquiry are similar; and

(c) it is fair and proper for them to be jointly represented.

(2) The chairman must direct that those core participants shall be represented by a single recognised legal representative, and the chairman may designate a qualified lawyer for that purpose.

(3) Subject to paragraph (4), any designation must be agreed by the core participants in question.

(4) If no agreement on a designation is forthcoming within a reasonable period, the chairman may designate an appropriate lawyer who, in his opinion, has sufficient knowledge and experience to act in this capacity.

12. Accordingly, as I am satisfied that Mr Proctor has appointed Mark Stephens of Howard Kennedy of Howard Kennedy as his qualified lawyer, I designate Mr Kennedy as his recognised legal representative in accordance with rule 6(1) as I am required by that rule to do.



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13. If Mr Proctor wishes to make an application for an award under section 40(1)(b) of the Inquiries Act 2005 for expenses to be incurred in respect of legal representation at the forthcoming public hearing, he should submit an application by no later than **4pm on 25 January 2019**. Any application made will be determined in accordance with the Inquiry's Cost Protocol on Legal Representation at Public Expense.

**Professor Alexis Jay OBE**

**16 January 2019**

**Chair, Independent Inquiry into Child Sexual Abuse**