



INDEPENDENT INQUIRY CHILD SEXUAL ABUSE

NOTICE OF DETERMINATION

LIMITED WAIVER OF CONFIDENTIALITY UNDERTAKING CONCERNING COMPLAINANT CORE PARTICIPANTS IN THE ACCOUNTABILITY & REPARATIONS INVESTIGATION

1. On 10 January 2019 Durham Constabulary, a Core Participant in the Accountability & Reparations investigation applied to the Inquiry for a limited waiver of its existing confidentiality undertaking pursuant to section 17 of the Inquiries Act 2005 and in line with the exception provided in the confidentiality undertaking to allow the police force to use material received as part of the investigation for the purpose of undertaking criminal investigations into the allegations of sexual and / or physical abuse (and any other criminal acts) made by the following complainant Core Participants:
 - a. Mark Gray (anonymity waived)
 - b. Peter Robson (anonymity waived)
 - c. F31 (AR-A34)
 - d. F32 (AR-A25)
 - e. James Thomas (Tom) Harding (anonymity waived)
 - f. Peter Smith (anonymity waived)
 - g. F50 (AR-A96)
 - h. F27 (AR-A5)
 - i. Colin Watson (anonymity waived)

2. The application was based on the following:
 - a. The material in question (mainly witness statements (the Statements)) provides information about physical and / or sexual abuse the above individuals say that they sustained whilst at Stanhope Castle.

 - b. The Statements contain information (and in some cases significant information) that was not available to the police force when it was conducting the original criminal investigations relating to those individuals and Stanhope Castle.



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- c. Article 3 of the European Convention on Human Rights places an obligation on police forces to carry out a criminal investigation into allegations of serious violent crimes of this nature (*DSD & NBV v Commissioner of the Police of the Metropolis* [2016] QB 161 at [44-45]).
 - d. The application for a limited waiver of the undertaking to allow Durham Constabulary to investigate whether serious crimes have taken place is:
 - i. patently in the public interest; and
 - ii. consistent with the objective of seeking to ensure accountability and reparations for potential victims, and as such consistent with the objectives underpinning the work being undertaken by the Inquiry.
3. Durham Constabulary also wrote to those acting for the providers of the Statements, notifying them of this application and inviting them to confirm whether they consent to the Statements being used for the purpose of further criminal investigations.
4. On 23 January 2019 having considered Durham Constabulary's formal application, I made a provisional determination that there should be a limited waiver of the confidentiality undertaking to allow the police force to use the statements it holds due to its participation in the Inquiry for a purpose outside it, i.e. to investigate further the allegations made by the individuals relating to sexual and / or physical abuse and any other criminal acts.
5. No legal representatives made any substantive representations on the Provisional Determination by the deadline given. Accordingly, for the reasons set out above, a limited waiver of the confidentiality undertaking will be granted to the police force to allow it to use the Statements it holds due to its participation as a Core Participant in the Inquiry for a purpose outside it, i.e. to investigate further the allegations made by the individuals relating to sexual and / or physical abuse and any other criminal acts.

Professor Alexis Jay OBE

5 February 2019