

RESTRICTION ORDER

No. 5: EVIDENCE OF MATTHEW SMITH AND THERESA SMITH



The Chair of the Scottish Hospitals Inquiry, in exercise of the powers contained in section 19 of the Inquiries Act 2005 (“the Act”) and all other powers enabling him in that behalf, makes the following Restriction Order.

IT IS ORDERED THAT:

1. General

- 1.1 This Order is made on 25 October 2021 and remains in force indefinitely, unless the Chair of the Inquiry orders otherwise.
- 1.2 The Chair may vary or revoke this Order by making a further order at any point during the course of the Inquiry.
- 1.3 Any person aware of any breach of this Order must notify the Solicitor to the Inquiry in writing immediately upon becoming aware of the breach.

2. Interpretation

2.1 For the purposes of this Order:

2.1.1 “Core Participant” means an individual or organisation who is designated a Core Participant to the Inquiry by the Chair.

2.1.2 “Inquiry” means the public inquiry established by the Scottish Ministers under the Inquiries Act 2005 to consider the planning, design, construction, commissioning and, where appropriate, maintenance of both the Queen Elizabeth University Hospital Campus (QEUH), Glasgow and the Royal Hospital for Children and Young People and Department of Clinical Neurosciences (RHCYP/DCN), Edinburgh with Lord Brodie PC QC as chair, commonly referred to as the Scottish Hospitals Inquiry. References to the “Chair” should be construed accordingly.

2.1.3 “Recognised Legal Representative” has the meaning given by Rule 5(1) of the Inquiries (Scotland) Rules 2007.

2.1.4 “Witness Statements” means the witness statements and any documents referred to in the witness statement, provided by the Witnesses to the Inquiry.

2.1.5 “Witnesses” means Matthew Smith and Theresa Smith, both of Greenock, who have submitted the Witness Statements to the Inquiry.

3. Order

- 3.1 This Order applies to any information contained in the Witness Statements or evidence given in the course of the Inquiry's proceedings by the Witnesses.
- 3.2 There shall be no publication or reporting whatsoever of the Witness Statements, or any other evidence, including oral evidence, given to the Inquiry by the Witnesses. In addition:
- 3.2.1 The Inquiry shall not publish the Witness Statements
- 3.2.2 Any oral evidence of the Witnesses shall be provided in closed session of the Inquiry during which everyone is excluded from the hearing room except for the members of the Inquiry team, the Witnesses and the legal representatives of Core Participants.
- 3.2.3 The Inquiry shall not make available a video recording or livestream (whether delayed or otherwise) of any oral evidence which is given by the Witnesses at a hearing of the Inquiry.
- 3.2.4 The Inquiry shall not publish a transcript of the oral testimony of the Witnesses.
- 3.2.5 No reference will be made to the evidence provided by the Witnesses by any person in any subsequent hearing of the Inquiry that is being live streamed.

4. Exceptions to Order

- 4.1 Nothing in this Order prevents:-
- 4.1.1 the Inquiry making available the Witness Statements, a livestream of any oral witness evidence which is given by the Witnesses or a transcript of the oral testimony of the Witnesses to the legal representatives of any Core Participant. Any legal representative of a Core Participant to whom such a Witness Statement, livestream or transcript is made available shall not further publish or report its content other than in accordance with the terms of Restriction Order 1 of the Inquiry, which shall apply to that material as if it was Protected Material;
- 4.1.2 the contents of the Witness Statement or any other evidence, including oral evidence, given to the Inquiry by the Witnesses being disclosed by the Witnesses outside of Inquiry proceedings provided that in disclosing such contents, they shall not disclose that the material was contained in the Witness Statements or other evidence submitted to the Inquiry by them;

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- 4.1.3 the contents of the Witness Statement being referred to by any member of staff of the Inquiry (which expression includes counsel to or instructed by the Inquiry) where the disclosure or publication is to another member or members of the staff of the Inquiry, or to an expert to the Inquiry, or to any person carrying out processing of information on behalf of the Inquiry, and is, in all cases, for the purposes of the Inquiry; and
- 4.1.4 the contents of the Witness Statement and any other evidence given by the Witnesses being referred to orally at any further hearing of the Inquiry held in a closed session from which members of the public are excluded.

5. PENAL NOTICE

5.1 In the event of any breach of this Order, the Chair may certify the matter to the appropriate court under section 36(1) of the Act for the court to make such order by way of enforcement or otherwise as it sees fit.

Lord P Brodie QC PC
Chair, Scottish Hospitals Inquiry
25 October 2021