

## **General Restriction Order made under Section 19 of the Inquiries Act 2005**

### **Introduction**

1. Section 18 of the Inquiries Act 2005 (“the Act”) imposes an obligation on the Chair to take such steps as he considers reasonable to secure that members of the public (including reporters) are able to obtain or view a record of evidence and documents given, produced or provided to the Inquiry.
2. Section 19(3) of the Act provides that restrictions on the disclosure or publication of such evidence or documents by the Inquiry can be imposed where (i) such restrictions are required by law, or (ii) the Chair considers it to be conducive to the Inquiry fulfilling its terms of reference, or to be necessary in the public interest, having regard in particular to the matters mentioned in section 19(4) of the Act.
3. The Chair considers that the disclosure of documents, which may contain personal data and other sensitive or confidential data, to the public at the same time as to core participants and their recognised legal representatives would not be conducive to the Inquiry fulfilling its terms of reference. The Chair considers that disclosure of evidence to the public should take place during the hearings and that such evidence should be considered alongside witness evidence. Further, not all documents disclosed to the core participants and their recognised legal representatives will necessarily be led in evidence or otherwise disclosed to the public.
4. The Chair considers that certain restrictions on disclosure and/or publication by the Inquiry of certain evidence and documents given, produced or provided to the Inquiry or to be given, produced or provided to the Inquiry should be imposed.
5. Therefore, in exercise of the powers contained in Section 19 of the Act, the Chair orders that:

### **General**

6. This Order is made on 9 December 2025 and remains in force indefinitely, unless the Chair orders otherwise.

7. The Chair may vary or revoke this Order by making a further order at any point during the course of the Inquiry.
8. Any person affected by this Order may apply for it to be varied or discharged on giving 24 hours' notice to the Solicitor by emailing [legal@emmacaldwellinquiry.scot](mailto:legal@emmacaldwellinquiry.scot)
9. Any breach of this Order, or threat to do so, shall be notified to the Solicitor by emailing [legal@emmacaldwellinquiry.scot](mailto:legal@emmacaldwellinquiry.scot) immediately.
10. This Order applies to all members of the public, including the CPs, their recognised legal representatives and the media.

### **Restriction on Disclosure**

11. Subject to the other provisions of this Restriction Order, a recipient shall not disclose, publish or communicate the existence, source, content or substance of restricted material to any person, nor in any way directly or indirectly permit or suffer the publication, disclosure or communication of the existence, source, content or substance of restrictive material.

### **Exceptions**

12. A recognised legal representative or authorised staff may copy restricted material from the system the Inquiry uses to disclose the restricted material or from any email from the Inquiry to which is attached restricted material, to the document management system used by the recognised legal representative, provided that access to the restricted material on that system is restricted to the recognised legal representative and authorised staff.
13. A recognised legal representative or authorised staff may make available a copy of restricted material to:
  - (i) the core participant, or where the core participant is a corporate or unincorporated body, appropriate office holders or employees of the core participant, represented by the recognised legal representative; and
  - (ii) counsel

having in both cases first drawn their attention to the terms of this Restriction Order and the possible consequences of non-compliance with its terms.

14. Paragraph 12 applies to:

- (i) a core participant that is a corporate or unincorporated body; and
- (ii) a recipient that is not a core participant, recognised legal representative or counsel but is a corporate or unincorporated body,

as if the references in that paragraph to a recognised legal representative were references to that body.

15. Otherwise than as permitted by paragraphs 12 and 13, a recipient shall not:

- (i) make any electronic copies of restricted material; or
- (ii) print any restricted material.

16. When:

- (i) a recognised legal representative or authorised staff make available restricted material in accordance with paragraph 13;
- (ii) a recognised legal representative, or those referred to in paragraph 13, are granting access to restricted material stored on their document management or storage systems to their employees or office holders,

they shall at all times have due regard to the requirement that it should not be made available more widely than is strictly required for the purpose for which the restricted material was made available by the Inquiry. Accordingly, restricted material should be distributed on a on a need-to know basis and only to those who can reasonably be expected to assist in the fulfilment of that purpose.

17. A recipient shall not make use of restricted Material for any purpose whatsoever other than for the purposes of Inquiry proceedings.

18. The terms of this Restriction Order do not apply to the extent that:

- (i) any restricted material is or becomes generally known or available to the public at large through no act or omission of a recipient;
- (ii) any restricted material was acquired by a recipient independently of the Inquiry and not as a result of any breach of confidence or of this Restriction Order either on the part of the recipient or a party from whom the recipient obtained the restricted material, whether the acquisition was before or after disclosure by the Inquiry to the relevant recognised legal representative;
- (iii) the Inquiry or a recipient is obliged to disclose any restricted material by law; or
- (iv) the Chair agrees in writing that a recipient may disclose any restricted material.

19. Where a recipient proposes to disclose, publish or communicate any restricted material by virtue of any of the provisions of paragraph 18, they shall give the Solicitor to the Inquiry no less than 24 hours' advance notice of their intention to do so.

20. Nothing in this Restriction Order prevents or prohibits a recipient from relying upon or referring to any restricted material during any hearing of the Inquiry, or in any written or oral submissions or statements made to the Inquiry, provided that any submissions, statements or other material containing restricted material are not sent to any third party, and are subject to any other applicable restrictions on disclosure.

## **Enforcement**

21. Where a recipient:

- (a) fails to comply with, or acts in breach of, this Order; or
- (b) threatens to do so, the Chair may certify the matter to the Court of Session or High Court under section 36 of the Act, and the Court will deal with it as though the breach had occurred in proceedings before that court.

### **Interpretation**

“Authorised staff” means any employee or professional colleague of a recognised legal representative, working under the authority and ongoing supervision of that recognised legal representative.

“Core participant” means an individual or organisation who is designated a core participant by the Chair of the Inquiry.

“Counsel”, in relation to a core participant, means any senior and junior counsel appointed to represent the interests of the core participant in relation to the Inquiry from time to time.

“Inquiry” means the Emma Caldwell public inquiry established by the Scottish Ministers under the Inquiries Act 2005.

“Restricted material” means any witness statements, documents and other evidence, information or material of whatsoever nature given, produced or provided to the Inquiry, or created or generated by the Inquiry, made available to recognised legal representatives by the Inquiry (and by recognised legal representatives to core participants, or counsel, in accordance with the terms of this Restriction Order) from time to time.

“Recipient” means:

- (a) a core participant,
- (b) a recognised legal representative, or
- (c) counsel,
- (d) any other person who has received, been shown or otherwise had made available to them restricted material, whether by the Inquiry, by a recognised legal representative or otherwise.

“Recognised legal representative”, in relation to a core participant, means any qualified lawyer appointed to act on behalf of the core participant and recognised by the Chair as their recognised legal representative in accordance with Rule 5(2) of the Inquiries (Scotland) Rules 2007 from time to time.

Issued under authority of the Chair on 9 December 2025.

