

RESTRICTION ORDER FOR ANONYMITY OF WITNESS HSC0037 DATED 13 NOVEMBER 2023 PURSUANT TO SECTION 19 OF THE INQUIRIES ACT 2005

The Chair has the power under section 19 of the Inquiries Act 2005 (“the Act”) to make orders restricting disclosure or publication of evidence and documents given, produced or provided to the Inquiry.

This Restriction Order is made pursuant to section 19(1) of the Act and binds all members of the public and media, witnesses, legal representatives, core participants and all members of the Inquiry team.

Any threat to break such an order, or any breach of it, can be certified to the Court of Session or the 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.

IT IS ORDERED THAT:

1. General

1.1 This Order is made on 13 November 2023 and remains in force indefinitely, unless otherwise ordered.

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 breach of this Order by any means whatsoever shall be notified in writing to the Solicitor to the Inquiry immediately upon identification 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 by the Chair to the Scottish Hospitals Inquiry.

2.1.2 “Recognised legal representative” has the meaning given by Rule 5(1) of the Inquiries (Scotland) Rules 2007.

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

3. Order

3.1 This Order applies to all evidence given in the course of the Inquiry’s proceedings, including evidence which is published on the Inquiry’s website, insofar as such parts give rise to information relating to the identity of Witness HSC0037, (“the Witness”).

3.2 Reference to information which is capable of leading to the identification of the identity of a person includes, but is not limited to, the witness's name, the witness's address, the names of any relatives of the witness, the identity of the witness's place of work, any still or moving image of the witness and information that may tend to identify the witness and the witness's family members, which may include deceased family members.

4. Restrictions

4.1 There shall be no reporting or publication whatsoever of any information capable of leading to the identification of the Witness. Particular provisions relevant to this restriction include, but are not limited to, the following:

4.1.1 There shall be no reporting or publication of any information provided in the course of any oral witness evidence during the Inquiry's hearings which is capable of leading to the identification of the identity of the Witness.

4.1.2 There shall be made available a transcript of the Witness and the live evidence which will be redacted prior to release to the press and the public to remove any information which is capable of leading to the identification of the Witness ("the Redacted Transcript").

4.1.3 Materials adduced in evidence during the Inquiry's oral hearings which are capable of identifying the Witness shall be redacted to remove any such identifying information before they are published on the Inquiry's website.

4.2 The Witness will give their oral evidence from a remote location. Whilst giving their oral evidence, the Witness's image will only be visible to the Chair and to Counsel to the Inquiry and no still or moving image of the Witness will be made publicly available within the hearing room, or via livestream (whether delayed or otherwise) on YouTube (or any other medium). Only the audio of the Witness's oral evidence will be made publicly available within the hearing room and via livestream.

5. Disclosure of Witness Statements

5.1 Any Witness Statements provided to the Inquiry, which are capable of identifying the Witness shall be redacted to remove any such identifying information before they are published on the Inquiry's website, or disclosed to Core Participants.

5.2 Nothing in this Order prevents:-

5.2.1 the contents of the Witness Statement being referred to by the person who gave, produced or provided the evidence or document to the Inquiry, other than while giving oral evidence at a restricted hearing.

5.2.2 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, and is to be broadly construed) 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 whilst and only whilst doing so, and is for the purposes of the Inquiry.

6. PENAL NOTICE

6.1 The Court of Session and the High Court and the have the power to imprison or fine for any breach of this Order.

Dated 13 November 2023

Lord Brailsford
Chair