



**A REVIEW OF SAFEGUARDING AND
DIGNITY AT WORK PROCEDURES
AT THE
INDEPENDENT INQUIRY INTO CHILD SEXUAL ABUSE (I.I.C.S.A)**

PUBLIC STATEMENT

Introduction

1. On 7 July 2014, the Home Secretary announced the establishment of an Independent Inquiry to consider whether public bodies and non-state institutions had taken seriously their duty to protect children from sexual abuse. On 4 February 2015, the Home Secretary told the House that she planned to appoint Justice Lowell Goddard as the new Chair of the Inquiry. She also announced that she would be dissolving the existing Panel and establishing a new, statutory inquiry under the [Inquiries Act 2005](#). Mr Emmerson QC was reappointed as Counsel to the Independent Inquiry into Child Sexual Abuse.
2. When Professor Jay took over the role of Inquiry Chair in August 2016, Mr Emmerson was invited to continue in his role as Counsel to the Inquiry, and he agreed to do so. He resigned from that role on 29 September 2016. The Chair of the Inquiry and Mr Emmerson both made public statements at that time, however the underlying reasons for that resignation were the subject of considerable media speculation. It was reported that the Inquiry had been

aware of allegations of bullying and a sexual assault, with a suggestion that the Inquiry's response to those concerns had been inadequate.

3. The Home Affairs Committee (HASC) took an interest in the issue and, having questioned the Chair and two members of the Inquiry Panel at a public session held on 18 October 2016, made a number of criticisms in a subsequent report dated 24 November 2016.¹ In support of these criticisms, HASC's report drew heavily upon a written submission which had been made to it by Hugh Davies QC, formerly Deputy Counsel to the Inquiry. Mr Davies explained that his understanding of events was based upon information in the public domain. Before submitting it to HASC, Mr Davies did not, as I understand it, share his letter with the Inquiry in draft to ascertain whether his assumptions as to the background circumstances were correct.
4. HASC was also supplied with a confidential letter from an anonymised source, the contents of which were said to have helped the committee to understand the underlying issues and the way in which the Inquiry had dealt with them. Again, the letter was not shared with the Inquiry in draft. Having been supplied with a copy of the letter, I consider that it provided a selective and materially inaccurate account of events.
5. Before HASC's report was produced on 24 November 2016, Professor Jay contacted its Chair, the Right Hon. Yvette Cooper MP, and subsequently attended a meeting with her, accompanied by the Secretary to the Inquiry. In the course of the meeting Professor Jay sought, in a way that respected confidentiality, to provide HASC with a more balanced and rounded understanding of the background circumstances than that portrayed in the media. Professor Jay and her fellow panelists were dismayed when the points which she had sought to convey to Ms Cooper MP, many of which the latter seemed to be alert to already, were ignored in the committee's report

¹ <https://www.publications.parliament.uk/pa/cm201617/cmselect/cmhaff/636/63602.htm>

produced only a few days later.

6. HASC's criticisms are summarised in the following passage of its Report:-

[O]n the basis of the evidence we have seen, we do not believe that IICSA has taken seriously enough its responsibility to pursue allegations of bullying or disclosures of sexual assault within the Inquiry. Nor do we believe it has done enough to demonstrate publicly that it has a robust approach to such matters. One of the Inquiry's key purposes is to assess other organisations' procedures for dealing with disclosures of sexual assault or abuses of power, and institutional reluctance to confront difficult issues that might jeopardise their reputation. We therefore believe that it is extremely important that the Inquiry can show that it treats these issues with appropriate rigour when they affect IICSA itself.

7. Matrix Chambers, of which Mr Emmerson is a member, subsequently commissioned Sir David Calvert-Smith to investigate allegations which had been made against Mr Emmerson and to record his findings in a confidential report. On 14 December 2016, Matrix Chambers released a statement that "Sir David [had] concluded '*without hesitation*' that Mr Emmerson had not committed any act of sexual assault or sexual harassment."
8. Although Matrix Chambers was asked to disclose a copy of the report to the Inquiry, this request was regrettably declined. I therefore have no knowledge of the nature and scope of the investigation that Sir David Calvert-Smith undertook or the factual findings which underpinned his ultimate conclusions.
9. In the light of the concerns raised by HASC, I have been requested to examine the events surrounding Mr Emmerson's resignation from the Inquiry and to advise on the appropriateness, in the given circumstances, of the Inquiry's response. I have not been asked to inquire into or comment upon the veracity of any allegations made against Mr Emmerson or to second-guess the conclusions reached subsequently by the investigation commissioned by Matrix Chambers.

Evidence considered

10. At the start of my review, I was provided by the Inquiry with a substantial quantity of documentation to read and consider. As my investigation progressed, I asked to see certain further documents in order to fill any gaps in my understanding. These have been provided to me promptly and without reservation.
11. At the outset, I identified those witnesses whose evidence I felt was likely to be relevant to my investigation. Save in one case, all those whom I approached agreed to being interviewed by me. The person who declined to be interviewed by me was willing, however, to respond to questions in writing. I conducted interviews with the Chair and each of the Panel members, together with the Inquiry's statutory office holders and further individuals external to the current Inquiry team whose evidence was material to my understanding of events.

Findings

12. The Report that I have submitted to the Inquiry describes the unfolding events in considerable detail. However, given the entitlement of certain individuals to have their confidentiality and privacy respected, I am unable to comment in this public statement upon all of the circumstances leading up to Mr Emmerson's departure. The following is a brief outline of some of the relevant background.
13. The Inquiry's main offices are located at Millbank in central London. A large proportion of the 217 people who currently work for the Inquiry are based at this location. Many are civil servants seconded to the Inquiry from Government departments. Along with a wide range of administrative and support functions, there is also a team of around 20 barristers (hereafter 'the counsel team') who are retained to provide legal support on the many

strands of the Inquiry's work. Counsel to the Inquiry acts as the principal advocate and legal adviser to the Inquiry, but also has a key role in directing the work of the counsel team, ensuring that it functions productively and cohesively.

14. As already noted, Professor Jay assumed the role of the Inquiry's Chair in August 2016. The work of the Inquiry in the last quarter of 2016 was focused upon the undertaking of a review, the aim of which was to establish a clear strategic direction for the Inquiry's work following the departure of Dame Lowell Goddard and to set out its programme for 2017. This review was eventually published on 16 December 2016.²
15. On September 2016, a member of the Inquiry team [Ms A] reported a serious episode concerning the conduct of Mr Emmerson. In the same discussion, she identified factors which, on any objective view, significantly qualified the way in which the alleged episode should be responded to. From the outset, Ms A made it clear that she did not want the issue to be investigated nor reported to any external agency, and she identified compelling reasons why the Inquiry should respect her wishes in this regard.
16. Notwithstanding Ms A's wish that her report should not be escalated, steps were taken informally to exclude Mr Emmerson from the Millbank offices until a decision could be taken on how matters should be progressed. In mid-September 2016, Ms A informed Mr Emmerson that she proposed to resign. Ms A had been intending to stand down from the Inquiry at the end of the review in any event, but decided to bring forward her departure. This announcement immediately followed an email which Mr Emmerson had sent to her, sharply criticising a piece of written work that she had produced. Ms A denied that this email had precipitated her decision. Mr Emmerson maintained that it had.

² <https://www.iicsa.org.uk/news/independent-inquiry-publishes-internal-review-its-work>

17. When she communicated her resignation to the Inquiry's Solicitor, Ms A attributed her decision to difficulties with Mr Emmerson's behaviour, his lack of collaboration and his failure to value her work. She criticised Mr Emmerson's style of leadership and said that he was not the best person to continue in the role of Counsel to the Inquiry. Ms A did not make any reference to the matter she had reported earlier in the month.
18. The Inquiry was keen to retain Ms A's involvement: she was well-liked and valued. Moreover, her work on the review was ongoing. The Inquiry considered it important to try and find a means of addressing the concerns that she had raised. To that end, they approached Matrix Chambers, a set of barristers' chambers to which Mr Emmerson belonged. Although Matrix Chambers has a procedure that appeared to offer a suitable framework for the investigation and resolution of the issues which Ms A had reported, its Chief Executive was unable to provide any meaningful assistance in resolving the matter.
19. Having learnt more about the exculpatory factor which Ms A had drawn attention to when she made her report earlier in the month, the Inquiry was keen to engage with Mr Emmerson to see whether a solution could be found which would enable him to continue with the Inquiry. At that point, however, Mr Emmerson had resolved to leave and he effectively preempted any further discussion about his remaining in post by instigating discussions around the terms of his departure.
20. Having announced her resignation from the Inquiry, Ms A raised further allegations about Mr Emmerson's behaviour, of a different character to the matter which had been raised earlier in September and stemming from events which were said to have taken place some months previously. These potentially serious allegations had not been previously raised with any of the senior staff within the Inquiry. Neither had they apparently been reported to Matrix Chambers or the Bar Standards Board, the professional regulatory

body for barristers.

21. Notwithstanding Ms A's unwillingness to participate in an investigation into what was arguably the most serious of her allegations, the Inquiry weighed carefully the feasibility of undertaking the same. This course of action was ultimately blocked when the Inquiry received a letter from solicitors instructed by Ms A, asserting that her legal rights would be infringed were such a course to be pursued.
22. Against this background, the Inquiry considered that the scope for progressing any form of meaningful internal investigation was severely constrained. It sought legal advice and weighed the options with care. It took the view, realistically in my view, that it was not well placed to inquire into the veracity or otherwise of Ms A's primary allegation without her willing engagement. Investigation of the other matters which she had only latterly raised would also require her cooperation.
23. Ultimately, rather than instituting a formal investigation into one of its own statutory office holders, which might or might not result in his forced departure, the Inquiry agreed to engage in discussions with Mr Emmerson which culminated in his resignation. Matters were complicated by the fact that reports began to appear in the media which implied that Mr Emmerson was planning to leave the inquiry of his own volition because of his disagreement with the strategic direction proposed by the Chair of the Inquiry.
24. Following his departure, Ms A suggested to the Inquiry's Solicitor that another barrister from Matrix Chambers might be well suited to take over the role of Counsel to the Inquiry. In the event, an appointment has since been made from other barristers' chambers.
25. As part of my review, I obtained details of all other departures which had

taken place from the counsel team in the course of 2016. A number of members of that team had resigned or been released during that period for reasons unconnected with any apparent concern about his style of leadership or any other matter specific to Mr Emmerson. However, two members of the counsel team, both of them members of Matrix Chambers, stated that their decision to leave had been influenced by Ms A's perceived treatment and the way in which the Inquiry had responded to those circumstances. Neither raised any concerns that Mr Emmerson had behaved unacceptably towards them personally.

26. In 2015, two staff members working for the Inquiry had raised concerns about Mr Emmerson's interactions with them, to which they took exception. These concerns arose out of discrete episodes. Neither individual complained of any improper conduct on Mr Emmerson's part and neither of them wished to invoke any grievance or formal complaint. I formed the view that these reports, the veracity of which I am unable to comment upon, were distinct both in character and seriousness from the issues raised by Ms A.
27. As part of my review, I also examined the workplace policies and procedures which the Inquiry has adopted. A Dignity at Work policy was introduced in January 2016 and was disseminated to all staff working at the Inquiry's offices at that time. The policy describes the Inquiry's workplace principles in the following terms:-

The Inquiry should be a positive environment in which all those who work on or interact with the Inquiry are treated with dignity, respect and courtesy. All members of the Inquiry Team have the right to expect professional behaviour from others, and a corresponding responsibility to behave professionally towards others. All those who work on the Inquiry are expected to treat each other with respect, whatever their differences, grade level, role or relationship eg. manager and employee.

Harassment, bullying or victimisation will not be tolerated by the Inquiry which, given its role in assessing the behaviour of other institutions, has an obligation to be a beacon for good practice.

The Inquiry (working where appropriate with organisations from which members of staff are seconded, engaged or contracted) will aim to make the workplace a fair environment free of harassment, bullying and victimisation and to comply with the law.

28. The policy sets out a clear process by which workplace concerns can be raised and resolved informally or escalated via a formal investigation. So far as I am aware, the policy's formal procedures have never been invoked since their introduction.

Conclusions

29. The focus of my inquiry is upon the appropriateness and sufficiency of the IICSA's response to alleged complaints of bullying, sexual misconduct and abuse of power within the Inquiry itself. I have concluded that the IICSA was confronted, in September 2016, with a set of circumstances with complicating features of which there was no mention in the media coverage. Anyone with experience of managing complex issues in the workplace would have viewed these circumstances as presenting very formidable challenges, even in a conventional employment setting.
30. These events arose at a time when the IICSA was recovering its footing following the unsatisfactory leadership of its former Chair. But they were not a product of those deficiencies or the Inquiry's workplace culture. Neither were they, in my view, symptomatic of difficulties in the Inquiry's working environment more generally. Confronted with these particularly challenging circumstances, the Inquiry responded in a way which, judged in the round, was in my view both appropriate and proportionate.
31. The accusation, derived from media reports and anonymised sources, that the Inquiry had been unresponsive to issues of unfair treatment, is unjustified. It ignores a number of highly material factors, the detail of which I am unable to divulge in this public statement, which cast a fundamentally

different light on events. These factors are of central relevance to any fair-minded assessment of the Inquiry's response – indeed the realistic scope for any alternative response.

32. I found the current Chair and Panel members, drawing upon their diverse experience of the workplace, to have an informed appreciation of the particularly challenging situation with which they were confronted and manifest concern for those involved. Even though circumstances ultimately prevented them, for sound pragmatic reasons, from being able to offer any alternative resolutions, their attitude was sympathetic and supportive throughout. The suggestion that there was an institutional reluctance on the part of the Chair and Panel, or their senior advisers, to confront misconduct or abuse of power within the Inquiry itself has, in my view, no foundation whatever.
33. HASC's report proposed that this review of the Inquiry's safeguarding procedures should determine whether enough had been done to create an environment in which those involved with the Inquiry's work feel confident that they can make complaints without risk of adverse consequences, regardless of the level of seniority of the individuals involved.
34. Although the Inquiry had to work hard to establish a more cohesive and functional working environment following the departure of its former Chair, I saw no evidence that anyone working at the Inquiry felt inhibited about raising concerns, including in the period prior to August 2016 when Professor Jay assumed the role of Chair. Where issues have arisen as a result of interactions between those employed or engaged within the Inquiry, I found the response of the Inquiry's senior team to have been receptive and supportive.
35. In the course of my interviews, ideas were canvassed as to how the Inquiry could bolster its safeguarding arrangements in the future. In my view, the

creation of new roles and structures is not warranted at this stage. Without forming any view on the veracity of the underlying complaints, certain of which have now been separately investigated, I have reached the clear conclusion that the events which came to a head in September last year were the product of a highly specific and confined set of circumstances. The attributes of those currently in positions of seniority should enable the Inquiry, from here onwards, to engage productively with its core activities.

Independence

36. I can confirm that I have been able to approach my task with complete independence and impartiality. I have had no prior acquaintance or professional involvement with any of the individuals whose conduct or decision-making I have been asked to investigate. The findings and conclusions contained in my Report and this Statement are mine alone.

Mark Sutton QC

Old Square Chambers
10-11 Bedford Row
London WC1R 4BU

OLD SQUARE
CHAMBERS 