

**SPECIAL IMMIGRATION APPEALS COMMISSION**  
**PRACTICE NOTE ON ANONYMITY ORDERS AND RELATED ISSUES**

*Introduction*

1. This Note has been produced after consultation with the Users' Group, after an informal hearing on 23 May 2018, at which the Commission received written and oral submissions from the media, from Appellants' representatives, and from the Government Legal Department. The Commission thanks all who took part for their helpful contributions. The Commission is also grateful for the further written submissions and other materials provided by members of the Users' Group and by TNL in July and August 2018, after this Note was circulated in draft for comments, and in October and November 2018, culminating in TNL's further written submissions of 8 November 2018 and a response dated 15 November 2018 from Birnberg Peirce.
2. This Note sets out the Commission's conclusions on its general approach to anonymity orders and related issues, and the procedures which the Commission will adopt, and which it will expect the parties and the media to follow, as a general rule. The Commission emphasises that the parties in any case, and where the applicant for an anonymity order is a witness, a witness, or the media, are, of course, free to ask the Commission to depart from this procedure on the particular facts of that case. The Commission will consider such requests individually. The focus of this Note is the parties to proceedings, and Commission recognises that applications by witnesses raise different considerations, not least of timing, since a witness may not realise that he is involved in proceedings until long after the proceedings have started.
3. There is a glossary at the end of this Note, to which readers should refer for explanations of the terms used in this Note.

*A summary of the relevant statutory provisions and principles*

4. The Commission is a superior court of record (the 1997 Act, section 1(3)). Section 12 of the HRA therefore applies to it. In *A v BBC (Scotland)* [2014] UKSC 25 at paragraphs 66, however, Lord Reed, giving the judgment of the Supreme Court, held that section 12 does not apply to applications for anonymity contra mundum, or to applications for ancillary orders under section 11 of the 1981 Act (as to which, see paragraph 9, below). But he also held (paragraph 67) that fairness required that those affected by such orders should have a swift opportunity to challenge them at a hearing inter partes.
5. The principle of open justice also applies to the Commission, except and in so far as, in accordance with the legislative scheme, material is required to be considered in CLOSED (cf paragraphs 70 and 73 of *R (Guardian News and Media Limited) v Westminster Magistrates' Court* [2012] EWCA (Civ) 420, [2013] QB 618).
6. The Civil Procedure Rules do not apply to proceedings in the Commission, which are, instead, governed by the Rules.
7. Rule 39(1) of the Rules gives the Commission power to give directions in relation to the conduct of any proceedings. By rule 39(5)(h), directions may 'make provision to secure the anonymity of the appellant or a witness'.
8. As a matter of statutory construction, the Commission's power to provide for the anonymity of an appellant 'in relation to the conduct of' proceedings before it does not enable the Commission to order that he have anonymity generally. An anonymity order made by the Commission does not prevent the media from reporting news about a person who has made an appeal to the Commission, or from naming that person, provided that the report does not enable the appellant to be identified, directly or indirectly, as an appellant to the Commission. For example, an anonymity order by the Commission would not prevent the media from reporting that a named person (who also happens to be an appellant) had won the lottery, provided that nothing in the report directly or indirectly enabled him to be identified as an appellant to the Commission.
9. Section 11 of the 1981 Act applies to a court which has power to allow 'a name or other matter to be withheld from the public in proceedings before' it. Where the court

exercises that power, the court may also ‘give such directions prohibiting the publication of that name or matter in connection with the proceedings as appear to the court to be necessary for the purpose for which it was so withheld’. Section 11 of the 1981 Act applies to the Commission (see rule 39(5)(h) of the Rules, and the definition of ‘court’ in section 19 of the 1981 Act).

*Relevant factors*

10. The aim of this Note is to produce a consistent and considered approach to anonymity orders which respects the principle of open justice, and balances the interests of litigants in the Commission and of the media. In particular, this Note aims to balance the principle of open justice and the (sometimes) competing interests of those appellants and witnesses who have good grounds for seeking anonymity orders, and the interests of the media (and of the public) in the open and accurate reporting of cases in the Commission. These cases involve the exercise of considerable state power against people who face, in some cases, serious allegations which, because of their national security or other public interest element, they and their legal advisers may only understand in the barest outline, and which are, therefore, intrinsically difficult to rebut in public. The interests of national security, and any other public interest reasons for making a decision in a particular case are a further relevant factor.
11. The Note also takes into account the inequality of arms between media organisations and appellants. Media organisations are not only able to pay for excellent legal representation, but to deploy it very quickly. Many appellants are not in that position. Not all are represented, at least initially. Many who are represented are represented by solicitors who are publicly funded. Many of the firms of solicitors who regularly do this work are small firms. So far as the Commission is aware, none of those firms specialises in media law. Some firms who do this work have no apparent relevant experience at all. Some appellants are not in the United Kingdom. Some face logistical difficulties, and sometimes, dangers to their safety, in communicating with their legal representatives, if they have representatives, and/or with the Commission, if they do not.

12. Appellants bring appeals in order to challenge governmental decisions which have been made against them on grounds of national security or on for other public interest reasons. Anonymity orders are not the purpose of such challenges, but ancillary to them. Nevertheless, in some cases such orders may be required to make those rights of appeal effective. The suggestion, made by appellants' representatives, that onerous or intrusive procedures for obtaining anonymity orders may have a chilling effect on the initiation of appeals is therefore also a relevant factor. The resources of the parties and of the Commission should not routinely be diverted by elaborate and expensive procedures about anonymity orders. That means that there should be a simple procedure which is accessible to appellants and does not make the grant of an anonymity order (in those cases in which such an order is justified) a significant barrier, either to the initiation of an appeal, or to its continued pursuit. The short periods within which appeals must be brought (subject to discretionary extension where there are special circumstances) are also a relevant factor (see rule 8 of the Rules).
13. Nonetheless, the starting point cannot be that the Commission grants anonymity or related measures to appellants, as a matter of course, or without any scrutiny by it or by the media. Nor can there be a presumption in favour of such measures for the duration of an appeal (which in some cases may be several years). There are, instead, two starting points. The first is the principle of open justice. The second is the article 10 rights of the media, which are to be balanced against relevant countervailing factors. Where the countervailing factor is an unqualified Convention Right, that will tip the balance. Where the countervailing factor is a qualified right, it will not have precedence over the media's article 10 rights. The onus is on a person who asks for any derogation from that principle or from the media's article 10 rights, to show, by clear and cogent evidence, that the derogation necessary in the interests of justice.
14. Comments on the circulated draft revealed that there are three linked controversial, or potentially controversial, questions.
  - i. Should all applicants for anonymity orders should be required to follow the general procedure in this Note?

- ii. Should an applicant be named in an explanatory note or in any published order?
- iii. Who should the explanatory note and any order should be served on?

A fourth issue was how long orders should last. This is covered in paragraphs 37-38, below.

15. First, paragraph 2 of this Note makes clear that the procedure in this Note will apply unless the Commission is persuaded that there are good reasons for departing from it on the facts (and see paragraph 29, below).
16. Second, the Secretary of State and Birnberg Peirce, for appellants, contended that the explanatory note sent to the PA should not identify appellants. TNL's letter of 27 July 2018, and the materials sent with it, show that, in practice, the PA will not circulate applications or orders unless the applicant is identified by name. This means that, unless an appellant is identified by name in the explanatory note or order, the IAAS cannot be used to notify the media of an impending application for an anonymity order, of any order which is made.
17. In response to a further enquiry from the Commission, TNL contended, on 9 November 2018, that service on the PA was the only workable and legally effective way for anonymity orders (and presumably explanatory notes) to be served. TNL also said that it would be hard to manage a list of media organisations. Many did not know about the work being done on the draft Practice Note. Any list would be likely to be incomplete, and would be hard to keep up to date. It was not unreasonable for media organisations to keep the PA informed of changes, but it would be unworkable if they had to 'inform each individual court of any changes'. If the media were not informed of injunctions, they would not be bound by them. The beneficiary of an order is responsible for ensuring the proper service of any order. This cannot be shifted onto the media.
18. As Birnberg Peirce pointed out in its email of 15 November 2018, TNL's position has not been consistent over time, and its final position is not clear.

19. The third issue is alluded to in TNL's letter of 27 July and Birnberg Peirce's letter of 15 August 2018. Neither the Secretary of State nor Birnberg Peirce suggested that an anonymity order as served (as opposed to the version published on the Commission's website) should not name the person whom it protects.
20. After reflecting on the competing considerations, the Commission has decided that there are good reasons why the general position in SIAC should differ from the normal run of cases in which anonymity orders are made. The Commission accepts that evidence that the PA has not leaked confidential information in 13 years. Nevertheless, the factors described in paragraphs 10-12, above, distinguish appeals to the Commission from the other types of litigation in which anonymity orders can be made.
21. The critical additional points are the relatively small numbers of appellants, the limited nature of the Commission's power to order anonymity (see paragraph 8, above), and this Practice Note, which will be published on the Commission's website. Relatively few people appeal to the Commission. The nature of the cases in the Commission means that it is at least possible that an appellant to the Commission will be the subject of an anonymity order. That means that media organisations must be aware that it may be risky specifically to identify a person as an appellant or a witness in proceedings in the Commission (as opposed to identifying that person in any different context). These considerations and the other factors referred to above point to the conclusion that it should be their responsibility to check with the Commission (see paragraph 46, below) whether a person whom they propose to identify by name as an appellant or witness in the Commission is the subject of an anonymity order.
22. They also point to the conclusion that in any case where an applicant for an anonymity order relies on an article 3 risk, he should not be required to reveal his name in the explanatory note, and that service on the Legal Representatives of an explanatory note and order in such cases should be adequate notice to the media. In the interests of simplicity and consistency, the Commission sees no reason, at least initially, for adopting a different procedure in other cases.

23. The Commission is not persuaded that the burden of keeping the Commission informed of changes to the List is so onerous that the media cannot be expected to bear it, given that they keep the PA informed of relevant changes. The Commission is not requiring the media to notify every court of such changes; just the Commission.

*Procedure*

24. The Commission recognises that the very difficult circumstances of some appellants mean, that, in the interests of not deterring potentially meritorious appeals, and in the interests of providing immediate protection in those cases where it is necessary, there are compelling reasons (by analogy, though it does not apply, with section 12(2)(b) of the HRA) why the Commission should have a general rule that all appellants are granted anonymity orders for a short initial period after they lodge their appeals. That period should be long enough to enable them to instruct solicitors, if they wish, to give instructions to those solicitors, and to marshal evidence in support of an application for an anonymity order, should they wish to make one. That period is 28 days from the date the appeal is lodged with the Commission (subject to extension for good reason: see paragraph 27.i., below).
25. The standard order will operate from the date when the appeal is lodged. It will provide that the appellant is to be granted anonymity for the purposes of the proceedings in the Commission, and to be known as [supply initial and number] and that nothing may be published which, directly, or indirectly, identifies him as an appellant in proceedings before the Commission.
26. There is an analogy, though not a perfect one, with the practice in the Queen's Bench Division, which is to enable a Claimant in a privacy claim to issue an anonymised claim form in order to ensure that, should the Court grant the relief which he seeks, it will not be rendered futile by a requirement that he issue the claim form in his own name. The difficulties described above justify a significantly longer period than would in practice apply in a privacy claim litigated in the Queen's Bench Division (cf paragraph 14 of the Practice Guidance (Interim Non-disclosure Orders) [2012] 1 WLR 1003). See, also, somewhat more materially, in relation to ex parte applications

for Terrorism Prevention and Control Orders, paragraphs 8 and 11-19 of *Secretary of State for the Home Department v AP (No 2)* [2010] UKSC 26.

27. Before the expiry of the period of 28 days of the date when the appeal is lodged (but see further, paragraph 29, below), appellants, the Secretary of State, or the Special Advocates, as the case may be, must apply, in writing, for either

- i. the continuation of the anonymity order for a further short specified period with a reasoned explanation, supported by evidence, of any difficulties which have prevented them from making a properly supported application for an anonymity order or
- ii. the continuation of the anonymity order for the duration of the appeal or for such other period as may be appropriate (subject (i) to an undertaking to keep the Commission, the Legal Representatives and the Secretary of State informed of any developments which are relevant to the continuation of the anonymity order, and (ii) to a liberty to apply). This must be a reasoned application, supported by clear and cogent evidence, which shows that any derogation from the principle of open justice, and any interference with the article 10 rights of the press and the public, is necessary to protect the article 8 rights of the appellant or of his family, and/or because there are substantial grounds for believing that there is a real risk of a breach of article 2 or article 3, or on some other cogent ground. If an appellant contends that article 22 of Council Directive 2005/85/EC is engaged he must make this clear, and bear in mind *R McGeogh* [2015] UKSC 62; [2015] 1 WLR 4612.

28. The application must contain

- i. an application notice,
- ii. a witness statement or statements, verified by a statement of truth, explaining in sufficient detail why an order is necessary,
- iii. legal submissions,
- iv. a draft order, and



- v. an explanatory note describing what the case is about, with as much detail as can be provided without compromising the purpose of the application, so as to ensure that anyone served with the explanatory note can decide whether to instruct a lawyer, or to oppose the application. That explanatory note is not required to identify the appellant by name.
29. If an appellant, the Secretary of State, or a witness contends that the procedure in this Note should not apply in his case, he must serve a separate document stating what procedure should apply and explaining why. The Commission is aware that special considerations often apply to some classes of case, in particular where there is a CLOSED aspect to an application for anonymity (necessitating the involvement of special advocates), where very sensitive (though not CLOSED) material is involved, and/or where anonymity is sought for a witness. Such cases are likely to need an unusually long lead time. In such cases, it may be impossible to make an application to continue an interim anonymity order within 28 days of the lodging of the appeal. Applications may have to proceed in parallel with the Rule 38 process. The parties must notify the Commission as soon as possible if a case is likely to raise such considerations, and, where possible, give an estimate of the length of time for which it is contended the interim order should last. They will have an opportunity to contend that, in their case, the general procedure described below should not apply, or should be adapted.
  30. Long documents are not necessary. The grounds for the application and the evidence in support of it should be stated concisely, but should give the Commission enough information to decide whether or not the test for granting an anonymity order is met. If an appellant contends that there is information in the application which must not be referred to in the reasons for the order, he must state what that information is, and explain why it should not be referred to in the reasons for the order.
  31. Appellants may sometimes ask for orders which prevent the identification of members of their families. The Commission has no power to make such an order, unless its sole purpose is to prevent the indirect identification of an appellant. An appellant who

applies for such an order on such grounds must satisfy the Commission that such a provision is necessary to protect him.

32. If an application for anonymity is made, the appellant must immediately serve it on the Secretary of State. The appellant must also immediately serve the explanatory note on the Legal Representatives (see paragraph 28.v., above). If the Legal Representatives wish to oppose the application, they may approach the Appellant, and if they provide the appellant with an irrevocable undertaking that they will keep the materials lodged in support of the application in a safe place and use them only for the purposes of the anonymity proceedings, not disclose them to editorial staff or to anyone else, the appellant must give copies of those materials to the Legal Representatives, or abandon his application, unless he asks the Commission for permission to depart from that procedure, for example by allowing him to withhold sensitive material, and that permission is granted. The Legal Representatives may make written submissions, stating the date of service on them, within 14 days of such service, opposing an application for anonymity. The application will be decided on the papers, unless the media apply for the application to be decided at a hearing, and the Commission decides that the application cannot be decided fairly without a hearing. The Commission will not make an anonymity order unless the appellant shows that the Legal Representatives have been served with the explanatory note.
33. The interim anonymity order will continue until the Commission has made a final decision on all applications associated with it (see, also, the next paragraph of this Note).
34. If no application pursuant to paragraphs 27 – 32, above, is made within the period of 28 days from the lodging of the appeal, the interim anonymity order will lapse, without further application or order. The lapsing of the interim anonymity order is not a bar to a subsequent application for an anonymity order, provided that it is made in accordance with the procedure set out in paragraphs 27 – 32, above.
35. An anonymity order will give brief reasons for the making of the order. Orders will be published on the Commission's website. The published version will not identify the appellant by name. The Legal Representatives may, in any case, on notice to the

appellant's representatives and to the Secretary of State, apply to the Commission for disclosure of the identity of any appellant who is the subject of a published anonymity order. The appellant, the Legal Representatives or the Secretary of State may ask (giving reasons for the request) for any such application to be decided after a hearing. The Commission will decide the application on the papers unless it considers that it cannot be decided fairly without a hearing.

36. The practice of routinely including an anonymity order in an agreed draft order for directions must stop.

*Duration of anonymity orders*

37. As a matter of statutory construction, the power to make an anonymity order is not limited to the duration of the proceedings. 'In relation to the conduct of proceedings' indicates a broad link with proceedings, which could, in appropriate circumstances, include when proceedings are over. There may be reasons why, even though the proceedings have ended, an anonymity order should continue. Further, when proceedings are over may depend on a range of factors, including appeals, and subsequent remittals to the Commission. It is not unknown for proceedings to last many years.

38. There are three points, nevertheless. First, an appellant is under a continuing duty to keep the Commission informed of any matter which might affect the continued need for an anonymity order. Second, all orders must contain a liberty to apply, and the media can, for good reason, invoke that liberty at any time during the proceedings. Third, the Commission considers that the general position should be that an appellant who wishes an anonymity order to be continued after the OPEN judgment has been handed down should be required, as soon as the OPEN judgment has been circulated in draft, to indicate his intention to ask for any anonymity order to be continued. The Commission will then give directions for the determination any such application, which are likely to follow the procedure in this Note, unless the Commission is persuaded otherwise.

*Private hearings of the OPEN part of the proceedings*

39. The Commission has power to hold a hearing, or part of it, in private (rule 43(2) of the Rules). In general, open justice will prevail over any article 8 considerations relating to reputation, but there may be cases in which a private hearing of the OPEN part of the proceedings can be justified, on article 8 or on other grounds, such as article 3 grounds (*Global Torch Limited v Apex Global Management Limited* [2013] EWCA (Civ) 919; [2013] 1 WLR 2993).
40. Applicants for such orders must do their best not to imperil hearing dates, which are difficult to fix and are fixed months in advance. Any application for a private hearing, therefore, must usually be made no later than 35 days before the first date listed for the hearing to which the application relates. The need for a private hearing cannot always be predicted. The Commission can, where necessary, grant such an order at short notice, where the interests of justice require, but applicants for an order at short notice must explain why they have not applied sooner, and should not assume that such an order will be granted.
41. Applications and the material supporting them must be served on the Secretary of State. The Commission recognises that there may be good reasons why applicants should not be required to serve all such material on the Legal Representatives. As a minimum, an explanatory note, which outlines the reasons for the application, must also be served on the Legal Representatives. The Secretary of State or the Legal Representatives may make written representations opposing the application, within 7 days of the service of the application on them, and may apply for a hearing of the application. Any application by the Secretary of State or by the Legal Representatives for a hearing must be made within the same period. The Commission will consider the case for and against a private hearing on the papers, unless it decides, in response to an application for a hearing, that it cannot decide such an application fairly without a hearing. The Commission will also consider, in the same way, what further material, if any, should be served on the Legal Representatives.

*Documents referred to in OPEN proceedings*

42. As a body which exercises ‘the judicial power of the state’, the Commission has an inherent power to provide OPEN skeleton arguments on request to the public and to

the media, and subject to countervailing considerations in a particular case, OPEN documents referred to in a hearing: (*R (Guardian News and Media Limited) v Westminster Magistrates' Court* [2012] EWCA (Civ) 420, [2013] QB 618, paragraph 70, per Toulson LJ (as he then was); but, as explained and qualified in *Cape Intermediate Holdings Limited v Dring* [2018] EWCA (Civ) 1795, at paragraph 112).

43. However, the context is important, and there may, in any case, be significant considerations of national security, other public interest reasons, or factors relating to an appellant's circumstances, or those of a witness, which may influence the exercise by the Commission of this power. Where the media ask the Commission or the parties for such documents, the Commission encourages the parties to an appeal to confer and if possible to agree to provide such documents to the media in order to avoid the costs of a hearing before Commission. Where, for good reasons, the parties cannot agree to provide such documents to the media, the Commission will consider applications by the media for access to such documents on the papers, unless it decides, in response to an application for a hearing, that it cannot decide such an application fairly without a hearing. The Commission will not order the Secretary of State to release any OPEN documents to the media if the Secretary of State persuades the Commission that such disclosure would damage national security, or would otherwise be contrary to the public interest. The Commission will not order the release of any OPEN documents if an appellant or a witness persuades it that there are substantial grounds for believing that such disclosure would breach his rights, or endanger him.

#### *Listing of cases*

44. The Commission's published list of forthcoming hearings, the list published the day before the hearing, and the list outside the court in which any hearing is being held, will all indicate if an anonymity order applies to the appellant, or a witness, or if there is to be a private hearing of all or any part of the OPEN case.

#### *Correspondence and documents about a case in which an anonymity order has been made*

45. After this Note has come into force (see paragraph 52, below), and once anonymity orders in transitional cases have lapsed, or have been continued by the Commission,

as the case may be (see the next section of this Note), all correspondence sent by the Commission and by the parties about a case in which an anonymity order has been made must refer to the appellant by the initial and number which he has been assigned, and not by his name. Any determination of the Commission about the appellant must record that an anonymity order has been made in his case.

*Inquiries by the media about anonymity orders*

46. The Legal Representatives may approach the Commission to ask whether it has made an anonymity order in respect of a named person. If such an approach is made, and an anonymity order has been made, the Commission will notify the Secretary of State and the appellant of the approach and ask them whether they oppose the disclosure of the making of the order and/or of its terms to the Legal Representatives. Unless, within three working days (subject to extension on application), they indicate their opposition to such disclosure, with reasons, the Commission will disclose the existence of anonymity order to the Legal Representatives. If either party to the appeal opposes disclosure, the Commission will decide whether to order disclosure on the papers unless the Commission considers that it cannot fairly make a decision without a hearing.

*Transitional cases*

47. There are many existing appeals in which anonymity orders have already been made, either before, or after, 14 December 2017. On 14 December 2017, as a precautionary measure, and pending a hearing at which interested parties could make representations, the Commission made an interim order preventing the identification of any appellant as an appellant in the Commission, with liberty to apply. The media must have an opportunity to challenge those orders, if they see fit. The orders will continue until the Commission has decided any renewed application, unless they lapse, in accordance with paragraph 50, below.
48. All appellants who have applied for, and been granted, an anonymity order since 14 December 2017 must, if they wish that order to continue, apply for their anonymity order to be continued, within 56 days of the date when this Note comes into force (see paragraph 52, below), in accordance with paragraphs 27 – 32, above. In those cases

where their application was supported by evidence, they may be able to rely on the same evidence, provided that their circumstances have not changed.

49. All the appellants who were granted an anonymity order before 14 December 2017, or who have not been granted such an order, but who benefit from the 14 December 2017 order, and who wish such an order to continue, must apply, within 56 days of the date when this Note comes into force (see paragraph 52, below), for any such anonymity order to be continued. The application must be made in accordance with paragraphs 27 – 32, above.
50. Whatever the date of any existing anonymity order, if no application for the continuation of that anonymity order is made within 56 days of the final promulgation of this Note, the relevant anonymity order will lapse automatically without any further order or application. The lapsing of an anonymity order is not a bar to a subsequent application for an anonymity order, provided that it is made in accordance with the procedure set out in paragraphs 27 – 32, above.

#### *Legal representatives*

51. In its letter to the Commission of 27 July 2018 TNL helpfully indicated that it would welcome further discussion with the Commission on the list of Legal Representatives. TNL suggested that rather than individuals' names, the list should contain generic email addresses for media organisations' editorial legal departments. The Commission is content to adopt that suggestion for the time being, and asks TNL to provide it with such a list as soon as possible, so that it can be published on the Commission's website. The Commission expects media organisations to notify it promptly of any changes, and to ensure that any such email addresses are regularly monitored.
- 52. This Note will not come into force until TNL have provided the Commission with a List of Legal Representatives and it has been published on the Commission's website.**

#### *Review*

53. The Commission will keep the terms of this Note and its practical impact under review. The Commission welcomes the views of the Users' Group, and of the media,

on any difficulties which they encounter in practice, and their suggestions for improvements of any aspect of this Note. Those who comment should bear in mind that the Commission will, other than in exceptional circumstances, copy any comments to TNL and the Users' Group, as the case may be.

### *Glossary*

#### 54. In this Note

- a. 'The 1981 Act' means the Contempt of Court Act 1981.
- b. 'The 1997 Act' means the Special Immigration Appeals Commission Act 1997.
- c. Unless the context requires otherwise, 'anonymity order' includes reporting restrictions and related measures.
- d. 'Appeal' means an application to the Commission whether that is an appeal, or for a statutory review.
- e. 'Appellant' has a similarly extended meaning.
- f. References to 'the appellant' include a reference to his solicitors, where the context requires.
- g. 'The Commission' means the Special Immigration Appeals Commission.
- h. 'The explanatory note' means the note referred to in paragraph 28.v.
- i. 'The Legal Representatives' means the accredited legal advisers to media organisations who can be contacted via the list of email addresses referred to in paragraph 51, above, and which will be updated by the media as appropriate.
- j. 'The List' means that list. The List will be published on the Commission's website.
- k. 'The HRA' means the Human Rights Act 1998.
- l. 'The IAAS' means the PA's injunctions applications alerts service.



- m. 'Other public interest reasons' means the factors, other than national security, listed in rule 4(1) of the Rules; and 'otherwise contrary to the public interest' should be construed accordingly.
- n. 'The PA' means the Press Association.
- o. 'The Rules' means the Special Immigration Appeals Commission (Procedure) Rules 2003.
- p. 'TNL' means Times Newspapers Limited.
- q. 'The Users' Group' means the Special Immigration Appeals Commission Users' Group.

Mrs Justice Elisabeth Laing

29 November 2018

Model order

In the Special Immigration Appeals Commission

Case Number:

On the Appellant's application for an anonymity order pursuant to rule 39(5)(h) of the Special Immigration Appeals Commission (Procedure) Rules 2003 and for an order restraining publication pursuant to section 11 of the Contempt of Court Act 1981 ('the application')

On the Legal Representatives' having been notified of the application on [date and method of notification]

On considering the documents [describe these] ('the documents') lodged in accordance with paragraph 28 of the Commission's Practice Note on Anonymity Orders and Related Measures (the Practice Note')

[On counsel for the media having, in consideration of the receipt of the documents, given irrevocable undertakings to the Appellant and to the Commission that the documents and the information in them will be kept secure, and used only for the purposes of the application]

[On hearing counsel for the Appellant, for the Secretary of State and for the media]

And on the Appellant undertaking to keep the Commission and the Secretary of State informed of any matter which may affect the continued need for this order

It is ordered that

1. The Appellant be granted anonymity in relation to the conduct of proceedings in the Commission and be known in these proceedings as [supply initial and number].
2. Nothing may be published which, directly, or indirectly, identifies him as an appellant in these proceedings before the Commission.
3. There be liberty to apply on 48 hours' written notice to the Commission, to the Appellant, to the Secretary of State and to the Legal Representatives (as defined in the Practice Note).

4. This order continues until the OPEN judgment has been handed down in this appeal, or further order in the meantime, unless the Appellant indicates to the Commission, as soon as the OPEN judgment is circulated in draft, that he intends to apply for it to continue after the OPEN judgment is handed down, and applies to the Commission, before that judgment is handed down, for directions for the determination of any such application.