

**INQUIRY LEGAL TEAM'S NOTE ON ADVANCE
NOTIFICATION OF TOPICS PURSUANT TO RULE 10
OF THE INQUIRY RULES 2006**

1. Rule 10 of the Inquiry Rules 2006 states:

a. — (1) *Subject to paragraphs (2) to (5), where a witness is giving oral evidence at an inquiry hearing, only counsel to the inquiry (or, if counsel has not been appointed, the solicitor to the inquiry) and the inquiry panel may ask questions of that witness.*

(2) *Where a witness, whether a core participant or otherwise, has been questioned orally in the course of an inquiry hearing pursuant to paragraph (1), the chairman may direct that the recognised legal representative of that witness may ask the witness questions.*

(3) *Where—*

i. a witness other than a core participant has been questioned orally in the course of an inquiry hearing by counsel to the inquiry, or by the inquiry panel; and

ii. that witness's evidence directly relates to the evidence of another witness, the recognised legal representative of the witness to whom the evidence relates may apply to the chairman for permission to question the witness who has given oral evidence.

(4) *The recognised legal representative of a core participant may apply to the chairman for permission to ask questions of a witness giving oral evidence.*

(5) *When making an application under paragraphs (3) or (4), the recognised legal representative must state—*

i. the issues in respect of which a witness is to be questioned; and

ii. whether the questioning will raise new issues or, if not, why the questioning should be permitted.

2. At the hearing on 29 July 2019, Counsel to the Inquests (as he then was) submitted that:

"Rule 10 of the Inquiry Rules 2006 anticipate that all questions of witnesses will be asked by CTI unless exceptions apply. Sir, if it arises -- and it is an "if" at this stage – we do not anticipate submitting to you that you should apply that rule rigidly or anything like rigidly. Whilst you would no doubt wish to utilise that power in the rules to prevent repetitive questioning and ensure that core participants divided up topics for questioning on a sensible and efficient basis, we, as CTI, believe strongly that core participants at a public inquiry should be permitted to ask questions themselves of witnesses. Indeed, we would go as far as to submit to you, sir, in due course, if it comes to it, that we expect that a public inquiry would look on a day-to-day basis indistinguishable from an inquest."

3. The purpose of this Note is to set out how the Chairman will manage the application of Rule 10 at the hearings later this year to ensure that the Inquiry's hearings operate as efficiently as possible whilst also permitting the effective participation of all Core Participants in the examination of witnesses called to give evidence, in the light of the indication already given.

Inquiry oral hearings structure

4. The Inquiry's oral hearings will be structured so that evidence is heard on a number of different topic areas. These topics have been divided into the following chapters:

- Chapter 1: Reading of Names and One Minute's Silence
- Chapter 2: The Chairman's Introductory Remarks
- Chapter 3: Counsel to the Inquiry's Opening Statement
- Chapter 4: Commemorative Hearings
- Chapter 5: Opening Statements from CPs
- Chapter 6: Overview evidence;
- Chapter 7: Evidence relating to the Arena complex and the security arrangements;
- Chapter 8: Planning and preparation for the attack;
- Chapter 9: The events on 22 -27 May 2017;
- Chapter 10: The Emergency Response;
- Chapter 11: The detonation and its effect;
- Chapter 12: Experience of each deceased victim;
- Chapter 13: Background and radicalisation of Salman Abedi; and
- Chapter 14: Preventability.

5. Each chapter will be focussed upon the Inquiry's Terms of Reference which are engaged by that area of the evidence. This Note will only apply to Chapters 6 to 14.

Timetable

6. It is proposed that at least **14 days before** the oral evidence for chapters 6 to 14 begins, a document, which will be referred to as an "Evidence Proposal" will be circulated to all Core Participants. The Evidence Proposal will set out:
 - a. a summary of the central evidence to be heard during that particular hearing topic;
 - b. the issues which may be explored with witnesses scheduled to be called during that hearing topic; and
 - c. principal documents that witnesses during the hearing topic may be asked to comment on or consider in their evidence.
7. For lengthy chapters, the Inquiry Legal team may circulate the evidence proposals in smaller batches. For example, in two-week or month blocks. The proposals will be circulated no later than 14 days prior to the due date any given witness is listed to give evidence.
8. As far as it is possible to do so, the Evidence Proposal will identify general themes and issues to be explored during the hearing topic, as well as central issues that it is anticipated will be raised with each witness. The Evidence Proposal will not list every question to be put to any particular witness. Where there are categories or similar types of witness due to be called, the Evidence Proposal may group the issues to be raised with them together, rather than identifying matters for individual witnesses.
9. **Each Monday by 4pm**, CPs (or their RLR) who wish to seek permission from the Chairman, pursuant to Rule 10, to examine the witness that is scheduled to appear in the hearing week commencing in 7 days must submit that request in writing. This will be known as a "R10 Request". The 7 day deadline is to be treated as a rolling deadline and is to be based on the latest version of the hearing timetable.
10. **Each Thursday by 4pm**, notification will be given to a CP if there is any 'new' topic

area or document that the Chairman does not permit to be raised or, put by the CP to the witness. The Chairman may also place time restrictions on questioning, if considered necessary. Written notice will not be provided where it is agreed that the topics and documents identified in the R10 Request may be put to the witness by a CP. There will be a working presumption in favour of permitting matters to be put by CPs, subject to the normal rules of evidence and the Chairman's duty under s.17 of the 2005 Act to act fairly and to avoid unnecessary cost.

11. It is important for the efficient management of the hearings and the sensitivity of the materials involved in the Inquiry that the rolling deadlines set in this protocol are complied with. It is recognised that it may be necessary, on occasion, for the deadlines within this protocol to be amended or shortened. For example, if there are changes to the hearing timetable. The Chairman may permit oral applications to be made seeking permission to question witnesses where it is necessary and appropriate to do so. However, all those who wish to question witnesses should conduct themselves on the basis that there is a standing expectation from the Chairman that there will be adherence to the requirement set out at paragraph 8.

Content of R10 Request

12. The R10 Request must identify, pursuant to Rule 10(5), the issues the CP wishes to explore with the witness. This is not a requirement to set out every question. In order to promote the efficient running of the Inquiry and avoid unnecessary repetition, in the event the issues to be covered are in the Evidence Proposal, a short explanation should be provided as to why such questioning is appropriate and justified.
13. If there are topics and documents that the CP wishes to explore beyond those identified in the Evidence Proposal they must be made clear in the R10 Request. A short explanation as to why, given the issue(s) is/are not included in the Evidence Proposal, and why it is appropriate and justified for them to be raised, is also required.
14. Parties with a common interest in an issue are expected to liaise with each other prior to the submission of a R10 request to ensure duplication is avoided.
15. It will assist the Chairman if R10 Requests can be submitted in the same format by all CPs. This will make the task of reviewing them more manageable. A template for the R10 Request accompanies this document.

16. It is important that any 'new' documents that a CP wishes to refer to during the hearing are identified in the R10 Request with the correct INQ number, including with page numbers clearly identified. This will ensure that an electronic copy of that document is available and, more importantly, that any issues with the sensitivity of the document, including the scope of the redactions applied and the application of any restriction order is identified in advance. As all CPs will appreciate, due the sensitive nature of the evidence being considered in the Inquiry, it is a paramount concern to ensure that no materials are referred to in the hearing room, displayed on screens, shown on the livestream or published on the website unless they have been authorised for that specific purpose. If a document is not flagged in advance in accordance with this protocol the Chairman may not give permission for it to be used in questioning by a CP.
17. A copy of the R10 Request provided to the Chairman will not be circulated to any other CP. It will be held by the Chairman and his legal team in confidence, save as far as it is necessary to share it with any other CP or material provider to check any issues that arise from the wish to use and refer to the document in the hearings. If necessary, an amended copy of the Evidence Proposal to take into account new topic areas or issues may be circulated to all CPs.

Postscript

18. It is recognised that the above places a not insignificant administrative burden on both CPs and, indeed, the Inquiry Legal Team. The requirement is a necessary formality to ensure compliance with Rule 10 and the efficient, fair and focussed conduct of the Inquiry. However, it is envisaged that all involved will quickly settle into a strong collaborative working relationship in relation to the management of this aspect of the Inquiry, as indeed is to be hoped for and expected of every aspect of the Inquiry. The Inquiry Legal Team wishes to stress that lengthy explanations and substantial exposition are not required, and should any CP be in any doubt about how to optimise the efficiency of their completion of the R10 Request they should not hesitate to speak to a member of the Inquiry Legal Team.

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