
PROTOCOL ON THE USE AND ARRANGEMENTS FOR RESTRICTED HEARINGS

1. The purpose of this Protocol is to set out when and how the Inquiry will use, arrange and manage restricted hearings during the Inquiry.

Presumption of Openness

2. There is a legal presumption that the Inquiry will hear evidence in public. The Chairman is under a duty to take such steps as he considers reasonable to ensure that the public, including the media, are able to attend the Inquiry or to see and hear a simultaneous transmission of proceedings at the Inquiry. There is also a presumption that the public and media can obtain, or view, a record of evidence and documents given, produced or provided to the Inquiry. These legal presumptions are consistent with the open justice principle and the Inquiry's aim of addressing public concern.
3. Generally, public access to the Inquiry is achieved by the following steps:
 - a. Providing a YouTube feed of the evidence that is heard so that it may be viewed by the public at the time (subject to any delay) or by a 'playback' facility;
 - b. Publishing on the Inquiry's website a transcript of the evidence that is heard and any legal submissions that are made each day; and
 - c. Publishing on the website any documents that are adduced in evidence by being shown in the course of the oral hearings.
4. For those following the YouTube feed, depending on the evidence being heard, it may be subject to a delay of up to 10 minutes. This is to ensure that any evidence that is covered by an existing restriction order under section 19 of the Inquiries Act 2005, or which is otherwise so sensitive that it should not be made public, is not incorrectly made public.
5. The Inquiry is facilitating accredited members of the media to attend the Inquiry to report on the proceedings. There is a dedicated media annex with access to the delayed YouTube feed and, subject to Covid-19 restrictions, up to 3 members of the media are permitted to attend the Manchester Magistrates' Court and observe the proceedings without a delay. Those present in the

media annex and following the delayed YouTube feed are permitted to Tweet, live blog and post on social media about the evidence that is heard.

Definition of a Restricted Hearing

6. The term restricted hearings is used to refer to hearings where the Chairman will hear evidence that is subject to a section 19 restriction order as it is too sensitive to be heard in public, even with a delayed YouTube feed, but where Core Participants and the media are nonetheless permitted to attend, but not report on or otherwise make public the evidence that is heard. Such evidence includes operationally sensitive content, defined as content which, if published, whether taken alone or based on all the available disclosure (i.e. the mosaic effect), would be capable of assisting those who would wish to carry out future attacks. This includes material which reveals tactics, policies and procedures that, if disclosed publicly, would be of use to those who wish to carry out future terrorist attacks.
7. A restricted hearing is subject to any order that the Chairman may make permitting the information to be made public. Further details about this process are set out in the section of the protocol below headed, 'Applications for Publication'.

When Restricted Hearings Will Be Held

8. Restricted hearings will only be used where that is absolutely necessary. The default position will be that evidence will be heard in public, including evidence that is capable of touching on sensitive issues. A range of mechanisms will be employed to allow this to take place, including the Evidence Proposal documents that will be provided to Core Participants by the Inquiry under the Inquiry's Rule 10 procedure and the Rule 10 Request documents that Core Participants are required to provide where they wish to question a witness.
9. The use of restricted hearings during the Inquiry will be kept to the absolute minimum necessary and only used where there is no other way for the relevant evidence to be heard safely by the Inquiry and properly scrutinised to ensure that the Terms of Reference are fulfilled and recommendations can be made for the future. The use of restricted hearings will be the exception, not the rule. They will be used so that the fullest relevant evidence can be heard and tested that would otherwise require closed hearings (from which Core Participants, including the families, and the media would be excluded), or which would otherwise not be heard at all.

10. In determining whether a restricted hearing is absolutely necessary, regard should be paid to the following matters:
- a. The importance of the evidence in allowing the Inquiry to fulfil its Terms of Reference;
 - b. Whether the evidence can be explored without referring to the sensitive content; and
 - c. Where it is considered necessary to consider the sensitive content, whether the balance between the importance of the adducing the evidence and the incursion into public access and open justice favours departing from a fully open hearing.

Notice of Restricted Hearings

11. Evidence heard and material adduced in evidence during a restricted hearing will be subject to the terms of a restriction order pursuant to section 19, so that no evidence from a restricted hearing is made public. A copy of that restriction order will be made available on the Inquiry's website. It will include a schedule which will be updated with the dates of each restricted hearing so that the public and media are aware when restricted hearings have taken place.
12. Before a restricted hearing takes place, Core Participants and the media will be notified in writing of the intention to hold a restricted hearing. The written notice provided to Core Participants and the media may vary but will set out in general terms: (i) the name of the witness; (ii) the date the evidence will be heard; and (iii) a summary of the evidence or topics that will be heard in a restricted hearing.
13. Any written notice provided, in so far as it contains operationally sensitive material, will also be subject to the terms of the Inquiry's Type 1 and Type 2 restriction orders and may not be published or otherwise made public.
14. As far as possible, the media will be given at least 3 days' advance notice of the intention to hold a restricted hearing. It is likely that Core Participants will receive an initial notice 14 days' notice as part of the Inquiry's Rule 10 process, which will be confirmed when the final Evidence Proposal is circulated 3 days in advance of the hearing week.
15. Should a Core Participant consider that a restricted hearing is required in relation to a particular witness, an application should be made to the Chairman as soon as possible and in any event in response to the relevant Evidence Proposal (served as per the protocol on advance notification of topics) at least 7 days in advance of the hearing week in which the witness is scheduled to give evidence. This rolling deadline is each Monday at 4pm.

16. Applications for restricted hearings should set out why a restricted hearing is absolutely necessary, having regard to the factors set out above and any other relevant matters. A response to any request for a restricted hearing will be provided by the Inquiry, as per the protocol on advance notification of topics, by the Thursday of the preceding week that the witness is due to give evidence.
17. Following notification of a proposed restricted hearing from the Inquiry, should a Core Participant or the media wish to submit that the proposed restricted hearing should not take place, they should set out in writing their reasons as soon as possible following notification from the Inquiry and no later than 3 days before the restricted hearing (in the case of Core Participants) and no later than 1 day before the restricted hearing (in the case of the media).
18. Where the notice period to the media for a restricted hearing is abridged and the media are unable to attend or arrange legal representation at the hearing, a copy of the transcript of the restricted hearing may be made available on application. Any disclosure would be by inspection only, save for exceptional reasons, and subject to a signed confidentiality undertaking agreeing non-publication of any information contained within the transcript until further order.
19. A weekly timetable of the witness evidence to be heard will be published on the Inquiry's website. The possibility of a restricted hearing for particular witnesses will be noted on the timetable, subject to any sensitivities, so that the public are aware that that evidence will not be available online.

Arrangements for a Restricted Hearing

20. The arrangements for restricted hearings must take account of the current COVID-19 public health situation. In normal circumstances it would be strongly preferable for any restricted hearing to involve all those participating to be present at the Manchester Magistrates' Court, one of the Court annexes, or the Spinningfields Conference Centre. That is to ensure the necessary security given the sensitive nature of the material involved and the difficulties in overseeing locations away from the Inquiry venue. The current situation may require a degree of additional flexibility to ensure the effective participation of Core Participants and the media. However, there must still be a strong presumption that all who wish to participate will do so at the Court, one of the Court annexes or at the Spinningfields Conference Centre. That is necessary to allow restricted hearings to take place at all in the current circumstances. The paragraphs below reflect

this balance. These arrangements will be kept under review, having regard to the practical experience of the arrangements below and ongoing security assessments.

21. Core Participants and their representatives who wish to participate in a restricted hearing will be asked to do so, subject to Covid-19 restrictions, by attending the Manchester Magistrates' Court, one of the Court annexes, or, for the families only, the dedicated venue at the Spinningfields Conference Centre. The link to the Spinningfields Conference Centre will be a live feed to the restricted hearing, i.e. with no delay.
22. Core Participants (including family members) may be permitted to participate in a restricted hearing via the Inquiry's video-link platform, BlueJeans, at an identified professional location (e.g. a solicitor's offices). For security reasons, the use of such video-links will be subject to approval by the Inquiry, the use of such video-links will be limited as far as possible, relevant information on the video-link location may be required, and the Inquiry may require a further undertaking to be provided.
23. Where it is not possible for a Core Participant (including a family member CP) to attend the Magistrates' Court, one of the Court annexes or the Spinningfields Conference Centre, for example, because they are required to self-isolate, they may be permitted to participate via the Inquiry's video-link platform, BlueJeans, at a specified location. For security reasons, the use of such video-links will be subject to approval by the Inquiry, the use of such video-links will be limited as far as possible, relevant information on the video-link location may be required, and the Inquiry may require a further undertaking to be provided.
24. Where it is not possible for the representative of a Core Participant to attend Manchester Magistrates' Court, for example because they are self-isolating, they will be permitted to participate via the Inquiry's video-link platform, BlueJeans. For security reasons, the use of such video-links will be subject to approval by the Inquiry, the use of such video-links will be limited as far as possible, relevant information on the video-link location may be required, and the Inquiry may require a further undertaking to be provided.
25. For security reasons, Core Participants and their representatives who are participating in a restricted hearing via the Inquiry's video-link platform, BlueJeans, will be required to join from the BlueJeans app (downloaded to their PC or laptop), or using Chrome.
26. Up to three representatives of the accredited media (including any legal representative) will be permitted to follow a restricted hearing by attending at the Manchester Magistrates' Court.

Subject to Covid-19 restrictions and space limitations, the media will be invited to follow the restricted hearing in the main hearing room or one of the two court annexes. If more accredited media request attendance at a restricted hearing, this will be facilitated through a non-delayed link to the media annex.

27. As far as possible a restricted hearing will be arranged at the conclusion of the evidence of a witness and at the beginning or end of a hearing day. This will minimise the disruption to the public in being able to follow the oral hearings and maximise participation by the media (or their legal representative).
28. No one attending a restricted hearing will be permitted to report on or make public in any way the evidence that is heard, subject to any revision to the restriction order governing the restricted hearing. This includes not publishing any details of the evidence on social media or providing information about the restricted hearing to third parties for the purposes of publication.
29. Before a restricted session begins Counsel to the Inquiry will explain to the Chairman why such a restricted hearing is necessary, summarise any submissions against the proposed restricted hearing, and, subject to any necessary oral submissions from Core Participants or the media, invite the Chairman to briefly adjourn the hearing. The YouTube feed will then be stopped and any BlueJeans or other links setup. Once those arrangements are confirmed the restricted hearing will then commence.
30. During a restricted hearing the sensitive evidence that is adduced will be shown on the hearing room screens in the normal way to ensure that the Chairman, the witness and attendees can see the relevant document or evidence. It will not be put on the BlueJeans screen. This will be kept under review, having regard to the practical experience of the mechanisms above and ongoing security assessments.
31. A transcript will be kept of any restricted hearing and a record kept of any materials adduced in evidence. The transcript of the restricted session will be disclosed on the Magnum Sensitive platform and will be subject to the Inquiry's Type 1 Restriction Order.

Applications for Publication

32. At the conclusion of a restricted hearing, the Chairman will invite observations from Core Participants, the media and any legal representative present on their behalf to indicate whether they wish to apply for the restriction order to be varied or lifted so that evidence can be reported

and any objections to such an application. Observations may also be required from the owner of the information if they are not participating in the hearing. If possible, the Chairman will rule at the end of the restricted hearing on any application to vary or lift the restriction order so that any evidence which can be reported is made public as soon as practicable.

33. Where the Chairman rules that evidence heard in a restricted hearing can be reported, a redacted transcript of the restricted hearing will be available on the Inquiry's website, together with redacted versions of any evidence which the Chairman rules can also be made public. The transcript may require sensitivity checking before it is published on the Inquiry's website and will be released within 3 working days of the restricted hearing.
34. The sensitivity of evidence heard in restricted hearings will be kept under review throughout the Inquiry. The Chairman may seek observations from Core Participants on any information heard in a restricted hearing that he considers is no longer sensitive and should be made public. Whilst prompt applications are encouraged, Core Participants and the media may apply at any time before the conclusion of the Inquiry's oral hearings for evidence heard in restricted hearings to be made public.
35. In making such applications or objecting to them the following matters should be considered:
 - a. Why the public interest weighs in favour of publication of the evidence;
 - b. The harm that may be caused from publication of the evidence (e.g. to an operational tactic or threat to an individual's safety);
 - c. How that harm could be minimised or reduced to permit publication of the evidence (in whole or part);
 - d. Whether a summary or gist of the evidence could be made public;
 - e. Why the evidence is not considered to be sensitive, in whole or part (e.g. if already in the public domain).

Inquiry Legal Team
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