

Inquiry Protocol on Redaction of Documents

Introduction

1. It is important that the Inquiry sees all documents it obtains from institutions which are relevant to its work in complete form. However, there may be legal reasons why the Inquiry may need to apply redactions to documents before they are disclosed to Core Participants in any particular investigation and on to the general public via a public hearing or an investigation report. This protocol sets out the approach that will be taken by the Inquiry to the redaction of documents it receives from providers of information (POI).
2. It is for the Inquiry to determine the relevance of any particular document and for the Inquiry to determine whether a redaction should be applied, whether or not that redaction has been requested by a POI.
3. The procedures outlined below are not intended to cover every eventuality or every procedural issue that will arise. It follows that, where the interests of justice and fairness require it, the Inquiry may need to depart from this protocol in exceptional cases. Further, this protocol may be amended as necessary. Should the protocol be amended, the revised version will be published on the website.
4. Given the scope of the Inquiry as set out in the terms of reference and the potential for direct receipt of fresh allegations of non recent child sexual abuse or exploitation, there is the possibility that police investigations commence which may lead to criminal proceedings. It is of obvious and paramount importance that the work of the Inquiry does not risk prejudicing those investigations or any subsequent criminal proceedings. It is considered that, properly managed, the Inquiry can take its work forward without giving rise to such a risk. However, the Inquiry's approach will need to be tailored and subject to ongoing review to ensure no such risk is created. Secondly, in order to operate effectively and efficiently, the Inquiry needs to maintain an element of flexibility. Procedures may need to be adopted, or adapted, in order to enable it to do so.

Definitions

5. In this Protocol, any references to "information" includes documents and witness statements; and "document" or "documents" means anything in which information of any description is recorded, whether in paper or electronic form, and includes, but is not limited to, reports, reviews, board/committee minutes, governing/constitutional documents, legislation, letters/emails (internal and external), information from websites, guides/codes of conduct, policy documents and articles, and audio tapes of interviews.

6. The Inquiry's request for documents is wide ranging and may include a request for physical evidence: where it does; references in this Protocol to "documents" should also be taken to include references to physical evidence.

Purpose

7. This protocol is designed to set out a consistent approach to redaction and to ensure that the POI understands how the Inquiry will treat the information it intends to publish.

Provision of information to the Inquiry

8. This protocol should be read in conjunction with the Inquiry Protocol Relating to Receipt and Handling of Documents.

Redaction of documents

9. Subject to any restriction orders or notices which may be made under section 19 of the Inquiries Act 2005, the Chair must take reasonable steps to secure that members of the public may have access to a record of evidence produced at the Inquiry. The Inquiry will publish such documents following the relevant hearing, having regard to the Inquiry timetable and any relevant ongoing criminal investigations/prosecutions.
10. Except where Legal Professional Privilege or other legal bar to disclosure to the Inquiry is asserted in respect of any document or part of document, all documents must be provided to the Inquiry in unredacted form.
11. There are a number of reasons why POIs may request that documents or parts of documents provided to the Inquiry should be withheld from wider dissemination and / or redacted prior to disclosure to Core Participants or inclusion in evidence. These include the following:
 - a. the information in question is sensitive and irrelevant to the Inquiry's work;
 - b. the information in question constitutes personal data within the meaning of the Data Protection Act 1998, further disclosure of which is prohibited by that Act;
 - c. the information in question is covered by a Restriction Notice made under section 19(2)(a) of the Inquiries Act 2005;
 - d. the information in question would cause harm or damage to the public interest such that it is contended that a Restriction Order should be made by the Chairman for the reasons set out in section 19(3) to (5) of the Inquiries Act 2005 which include considering any conditions as to confidentiality which apply to the circumstances in which the information was obtained and avoiding:

- i. death or injury
 - ii. damage to national security or international relations
 - iii. damage to the economic interests of the United Kingdom or any part of the United Kingdom
 - iv. damage caused by disclosure of commercially sensitive information;
 - e. harm or damage to the public interest on grounds of public interest immunity applies; and
 - f. prejudice to the course or outcome of any ongoing criminal investigation or prosecution into matters relating to the information proposed for release.
12. Where a POI requests that all or part of a document is not disclosed, put into evidence or otherwise disseminated by the Inquiry for the reasons set out in paragraph 9 above, it shall when providing the document or documents in question to the Inquiry, include the information in question in highlighted form. Any documents or parts of documents in respect of which redactions are sought must be highlighted and an accompanying narrative provided which explains the reasons why the redaction in question is sought.
13. The Inquiry expects POIs to adopt a measured approach when seeking redactions. Documents will only be redacted by the Inquiry where the case for this has been properly made out, bearing in mind the applicable tests in the Inquiries Act 2005 and other relevant legislation and recognising the need for the Chair to secure that members of the public are able to view a record of evidence and documents provided to the Inquiry in accordance with the provisions of section 18 of the 2005 Act.
14. The Inquiry will consider all requests for redaction carefully and in accordance with the principles above. It is likely to issue a Protocol which will apply to consideration of requests for Restriction Orders. It may be necessary, in some instances, to disclose or put documents into evidence before the applications in question have been fully determined. Pending final resolution, all documents which are disseminated beyond the Inquiry itself will include all redactions sought on a provisional basis.
15. Where an application for redaction is determined and the Inquiry does not consider that the ground for the redaction in question is made out, it will notify the POI concerned prior to the document in question being disclosed without the redactions applied.
16. If, and to the extent that the POI wishes to rely on legal professional privilege or another legal rule as a reason for not producing a document (“part document” or “part of a document”), the POI must identify the document in question and specify the reason in writing to the Inquiry Solicitor, together with a summary setting out why the POI believes that the legal rule prohibiting disclosure to the Inquiry applies. Before asserting legal professional privilege,

POIs should consider carefully whether they should waive that privilege to assist the Inquiry in its work in the public interest.

Redaction of Personal Information

17. The Inquiry has its own obligations under the Data Protection Act 1998 and will review all documents prior to their disclosure to ensure compliance with this legislation and that a consistent approach to DPA redactions is applied. However, it would be assisted in this work by POIs highlighting the DPA redactions they seek in accordance with the process set out above. These are likely to include personal telephone numbers, dates of birth and home addresses unless there are particular circumstances that make such personal information relevant to the Inquiry's Terms of Reference.