

INQUIRY PROTOCOL RELATING TO RECEIPT AND HANDLING OF DOCUMENTS

Introduction

This protocol sets out the approach that will be taken with regards to the handling of documents received by the Inquiry. 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.

Given the scope of the Inquiry as set out in the terms of reference and the potential for direct receipt of fresh allegations of historical child sexual abuse or exploitation, there is the possibility that police investigations may be commenced 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.

The Inquiry will in due course publish a protocol relating to the redaction of documents for the purposes of publication.

Definitions

In this Protocol: "POI" means "Provider of Information" (and includes Her Majesty's Government ("HMG"), any person, institution or organisation, which has been asked to provide information to the Inquiry); 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.

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

This protocol is designed to facilitate the prompt delivery of information to the Inquiry by ensuring that that all providers of information and the public understand how the Inquiry will treat information it receives.

Provision of information to the Inquiry

The Inquiry will submit all requests for information through the Solicitor to the Inquiry and his office.

In establishing the Inquiry the Home Secretary said in her statement 4 February 2015 to the House of Commons:

“...I wish once more to reassure the House that the Official Secrets Act will not be a bar to giving evidence to this inquiry. I am clear that the inquiry will have the full co-operation of Government and access to all relevant information, including secret information where appropriate. I shall be writing to Secretaries of State to ask for their full co-operation, and I will ask the Cabinet Secretary to write to all Departments and agencies, and to public sector organisations, including local authorities, setting out the need for full transparency and co-operation with the inquiry.”

POIs, including legal representatives, should provide information requested by the Inquiry together with any other information they consider relevant within time limits specified by the Inquiry. The presumption will be that documents will be provided electronically whenever possible, with the exception of physical evidence. POIs are requested to and HMG POIs are required, to undertake comprehensive, thorough and rigorous searches in response to a request for information. In the event that an extension of time is sought, an application to the Chair in writing, through the Solicitor to the Inquiry, should be made as soon as possible.

In response to the commitment by HMG, the Inquiry commits:

That its arrangements for and the practice followed by its Secretariat, Panel members, Counsel to the Inquiry and any expert advisers or suppliers the Inquiry engages, in relation to the transmission, handling, storage, removal from secure offices and overall security of information will adhere to the relevant Government security rules and procedures covering all levels of security classification and specific procedures relating to the handling of individual documents which HMG identifies at the time the information is passed to the Inquiry or as soon after this is practicable;

That those who shall have access to HMG information held by the Inquiry, including the Panel members, Counsel to the Inquiry, Secretariat staff and any expert advisers that the Inquiry engages, will be appropriately security cleared, in line with Government rules and procedures for security clearance for access to classified information and as relevant the Official Secrets Act;

That it will file, record, store and retain both information passed to it, and any material it generates, in a manner consistent with guidance from The National Archives on filing, record keeping, storage and retention of official material in order for a complete record of the Inquiry to be handed over to The National Archives or government department, as appropriate where it will be treated in accordance with the statutory requirements affecting public records at the end of the Inquiry; and

Insofar as is applicable the standards and procedure outlined above will apply to documents provided by non-HMG POIs.

The Inquiry expects that the original copies of documents provided electronically will not be destroyed during the life of the Inquiry, unless express permission with justification for destruction is sought and granted by the Chair. All such applications should be made to the Chair in writing, through the Solicitor to the Inquiry.