



## Protocol on Applications for Restriction Orders

### Introduction

1. The Inquiry has been established so that some key evidence attracting national security sensitivity may be heard in closed session. Nevertheless, proceedings will be conducted in as public and as transparent a manner as possible, in accordance with the provisions of section 18 of the Inquiries Act 2005. This Protocol sets out the process by which applications for restriction orders prohibiting access to certain documents or parts of the proceedings may be made. This protocol does not address the separate question of how restriction notices may be made, which is a matter for the Home Secretary under section 19(2)(a) of the Inquiries Act 2005.
2. The Inquiry will disclose all witness statements and documents to core participants to which restrictions do not apply prior to the Inquiry's public hearings. Such documents used in the Inquiry's public hearings or otherwise put in evidence will be published on the Inquiry's website.
3. Should anyone have a valid reason to object to disclosure or publication of such material, they may apply to the Chair for a restriction order in accordance with section 19 of the Inquiries Act 2005.

### Application process

4. Applications for a restriction order should be made in writing to the Solicitor to the Inquiry.
5. Any such application should include:
  - a. An open section that identifies the restriction sought and provides as much detail about the application and the grounds on which it is made as is possible without defeating the purpose of the application;
  - b. A closed section that provides all remaining information about the application and grounds on which it is made. (Information set out in the closed section will amount to 'potentially restricted evidence' within the meaning of Rule 12(1) of the Inquiry Rules 2006); and
  - c. Supporting evidence, which if necessary may also be provided in open and closed form.

6. Upon receipt of an application, the Inquiry will generally follow the process set out below:
  - a. The Inquiry's legal team will discuss with the applicant whether any more of the information contained in the closed section of the application and any evidence provided in closed form can be moved into the open section. If there is a dispute, the Chair will be asked to decide.
  - b. The open section of the application and any evidence in support will be served on core participants and on representatives of the media subject to confidentiality undertakings. It may also be published on the Inquiry's website. The Chair may issue a 'minded to' decision when circulating the application.
  - c. The closed section of the application and any evidence in support may be served (subject to confidentiality undertakings) on one or more of the core participants, and/or on representatives of the media, and/or on any other person if the Chair considers it necessary for the determination of the application. The Inquiry's legal team will consult with the applicant as to whether any such service should be made. The Chair will decide whether and on whom to serve this material in light of all the circumstances, including any representations made by the applicant, the sensitivity of the material, the importance of the material to the issues in the application and any other representations that he has received. Consideration will be given as part of this process to the possibility of serving redacted versions and/or gists of the closed section of the application and supporting evidence.
  - d. The Chair will invite core participants and representatives of the media to file written submissions in response to the application (and 'minded to' decision if applicable). These submissions may be published on the Inquiry's website.
  - e. The Chair may thereafter:
    - i. invite Counsel to the Inquiry to file written submissions in response to the application (and himself issue a 'minded to' decision if applicable); and/or
    - ii. hear oral submissions on the application at a hearing, including if necessary in private session in the absence of the public and/or members of the press and/or some or all core participants.
  - f. The Chair will determine the application and give a written ruling, which will be published on the Inquiry's website. The ruling may contain a closed addendum, which will not be made public.
7. The Chair may vary the procedure set out above as appropriate.

8. If a person applying for a restriction order wishes the application to be determined by a procedure other than that set out above, written representations to that effect should be included with the application.

**14 April 2022**