

Protocol for witnesses giving evidence to the Iraq Inquiry

This protocol addresses:

- what the Iraq Inquiry will expect from witnesses giving evidence to the Inquiry; and
- what witnesses may expect from the Inquiry and its Secretariat.

Aims

1. This protocol is designed to ensure that:
 - a. the Inquiry gets the evidence that it needs to establish a reliable account of what happened between 2001 and the end of July 2009, and to identify the lessons that can be learned;
 - b. witnesses are aware how the Inquiry intends to work, how the evidence sessions will be managed, and whether they may expect to be identified and to give evidence in public;
 - c. witnesses have confidence that they will be treated fairly and with consideration;
 - d. the public have confidence that evidence to the Inquiry is given in public, and witnesses identified, except where there are genuine reasons not to; and
 - e. information will be properly protected if its publication would damage national security.

Principles

2. The Iraq Inquiry is committed to ensuring that its proceedings are as open as possible. It recognises this is one of the ways in which the public can have confidence in the integrity and independence of the Inquiry process.
3. As much as possible of the Inquiry's hearings will therefore be in public. But for witnesses to be able to provide the evidence needed to get to the heart of what happened, and what lessons need to be learned for the future, some evidence sessions will need to be private. That will be appropriate for example when it is necessary:
 - a. to protect national security, international relations, or defence or economic interests;
 - b. to ensure witnesses' welfare, personal security or freedom to speak frankly.

Before the Session

4. The Inquiry will decide who it wants to invite to give written and/or oral evidence. That may be as a result of an approach to the Inquiry by the individual concerned, or at the Inquiry's own discretion. The Inquiry welcomes approaches from any individual who believes he/she has relevant information to offer. The Inquiry cannot however undertake to hear evidence from every person who puts his/her name forward.
5. The Inquiry may decide to hear certain evidence in private, and not to identify certain witnesses – see Protocol for hearing evidence by the Iraq Inquiry in public, and for identifying witnesses.
6. The Inquiry Secretariat will generally write 7 weeks in advance to any person who the Inquiry expects to invite as a witness. For serving and former Ministers, civil servants and Crown servants (including military personnel), the letters will normally be copied to relevant departments/agencies. The Secretariat will set out the broad areas where the Inquiry believes the witness can offer evidence, and invite the witness (and his/her department where relevant) to:

- a. identify dates when he/she would be unable to attend;
 - b. if necessary, give reasons why some or all of the witness's evidence should be heard in private;
 - c. where either the witness has requested a private hearing or the Inquiry has decided to invite the witness to give evidence in private, indicate whether or not the witness is content for authorised representatives of the relevant government department to be present during the hearing;
 - d. if necessary, give reasons why the witness's identity should not be revealed in public; and
 - e. make any other requests he/she wishes the Inquiry to consider..
7. The Secretariat will provide each witness, and his/her department where relevant, generally four weeks before the date of the session, with:
- a. the date, time and place of the session, and its expected duration;
 - b. whether it will be in public or in private;
 - c. if public, the extent to which it is proposed to broadcast the session;
 - d. if a private session was requested but the Committee has decided to hear all or part of the evidence in public, the reasons behind that decision;
 - e. if the witness has asked not to be identified, but the Inquiry disagrees, the reasons (see further below);
 - f. an indication of the matters which the Inquiry wishes to cover during the session; and
 - g. documents the Inquiry wishes to refer to in the session (which will normally be limited to documents which the witness would have had access to at the time). .
8. The Inquiry may also invite a witness to provide a written statement in advance of the witness session. The witness may in any case provide a written statement if he/she wishes. All such statements relating to public evidence sessions will be treated as publishable unless reasons are given why they should not be published. In case of disagreement the process given in Documents and other Written and Electronic Information will be followed, or an equivalent process where confidences belonging to parties outside HMG are at issue. Statements should be sent to the Secretariat (at 35 Great Smith Street, London SW1P 3BQ) to arrive at least one week before the date of the session.
9. If any of the detail provided at this stage causes the witness difficulty (for example if it exposes new matters that should not be discussed in public), if the witness does not understand the matters on which evidence is required or does not feel qualified to give evidence on them, or if the witness wishes to bring to the Inquiry's attention any documents he/she would wish to refer to, the witness should contact the Secretariat as soon as possible.
10. The prime purpose of the Inquiry is to identify lessons to be learned. The inquiry is not a court of law and nobody will be on trial, although the committee will not shy away from making criticisms if warranted. In the event that a particular witness may be the subject of criticism by the Inquiry, the Inquiry Secretariat will, in accordance with normal practice, notify that witness separately, in writing at least seven days in advance of the evidence session, of the nature of the potential criticism and the evidence that supports it.
11. Departments will if appropriate provide legal and welfare support for current and former Ministers, civil servants and Crown servants (including military personnel), to help them prepare any statements and to provide assistance in advance of hearings. Other categories of witnesses may wish to seek similar support; the Inquiry will look sympathetically at the costs of this support, and can recommend that they be met by the public purse.

Requests for anonymity

12. If the witness has asked not to be identified, the Inquiry will consider the request applying the guidance in paragraph 4 of the Protocol for hearing evidence by the Iraq Inquiry in public, and for identifying witnesses. Requests from witnesses falling into the categories outlined in 4 a) and b) of that Protocol are unlikely to be refused. If a witness seeks anonymity on other grounds, the Inquiry will consider the request on its merits applying the principles set out above and in that Protocol.

At the Session

13. Evidence sessions will be conducted by the Privy Counsellors who make up the Inquiry Committee. They will be supported by members of the Inquiry Secretariat, and in some instances also by specialist advisers helping the Inquiry. Public sessions may be attended by the media and members of the public, and may be broadcast on television or radio, or streamed on the internet. The Inquiry will agree protocols with broadcasters, based on those adopted by Parliamentary Select Committees. Private sessions may be attended by an authorised representative of the relevant government department, unless the witness has requested otherwise.
14. Members of the Committee will question the witness. Questions from other people present will not be permitted. There will be no cross examination by lawyers acting on behalf of the Inquiry or of other parties. Witnesses should feel free to ask for explanation if they are not sure what the Inquiry wants from them.
15. The Inquiry recognises that particular questions may lead unexpectedly into sensitive matters that cannot be discussed in public. Witnesses should feel free to draw the Inquiry's attention to this. If the Inquiry judges that a matter should not be discussed in public, any further questioning on that will be deferred to a private session. If the Inquiry remains of the view that questioning should proceed in public, it shall resolve the matter through the process set out in Documents and Other Written and Electronic Information.
16. Witnesses may wish to be accompanied at hearings, for example by a friend, colleague, counsellor, trade union representative or legal adviser. Witnesses will be allowed one person to accompany them, who may sit close to them during hearings. In private sessions, this may be subject to the person having appropriate security clearance. In public sessions, other friends and colleagues may of course attend as members of the public. If a witness wishes for any reason to be accompanied when giving evidence, he/she should so request, ideally when first invited to give evidence (paragraph 6 above). The Inquiry will consider all such requests sympathetically.
17. During the hearing, a person (including a legal adviser) accompanying a witness will not be permitted to address the Inquiry Committee or speak on behalf of witnesses. Communication between the witness and the person accompanying him/her is not forbidden, but the Committee would expect that to be the exception; and that it should not disrupt the hearing or hinder the conduct of business.

After the Session

Transcripts

18. Draft transcripts of evidence will be provided to witnesses on the day of the session or the working day following. In the case of private hearings, the transcripts will be made available to the witness at the Inquiry's offices.
19. Witnesses will be invited to identify transcription errors, within a deadline of 5.00 pm on the working day following a public session or two working weeks following a private session (the difference in timescales reflecting the need for the witness to attend the Inquiry's offices to check the transcripts of private hearings).
20. Suggestions for "improving" evidence will not be accepted. If witnesses wish to correct their evidence, they may submit an addendum for consideration by the Committee. Witnesses will be asked to sign a statement confirming that their evidence as transcribed and corrected is truthful, fair and accurate.

Publication

21. In respect of public hearings, a draft transcript – marked as ‘uncorrected’ – will be placed on the Inquiry’s website at the time the text is sent to the witness for checking. This will be replaced by the final transcript once the witness has signed the statement confirming that the evidence, as transcribed, is truthful, fair and accurate.
22. As explained in the Protocol for hearing evidence in Public and for identifying witnesses, the Committee will give careful consideration to how best to draw on and explain in public what was covered in a private session, either in its final Report or at an earlier stage – for example, in the general interests of transparency or to pursue a point with a future witness in public session. This could be done in a range of ways, for example:
 - a. an unclassified summary of the nature of the evidence taken during the private hearing (this approach may be likely where the sensitivity of the evidence is such that it would not be possible to redact the transcript without rendering it unintelligible, but where the Committee nevertheless believes it is important, in the interests of transparency, to make clear the nature of the hearing);
 - b. a redacted transcript of the evidence (this approach could be adopted where it is possible to redact sensitive sections of a transcript without affecting the overall its comprehensibility; or
 - c. a full transcript (this approach is only likely to be possible where a private hearing has been held because of, for example, welfare concerns for a junior member of staff but where the nature of the evidence itself is not sensitive).
23. The Inquiry will apply the Protocol between the Iraq Inquiry and HMG regarding Documents and Other Written and Electronic Information to ensure that evidence relating to classified documents and/or sensitive matters (within the terms of the Protocol on Sensitive Information) is not inappropriately disclosed;
24. In addition, in cases where the Inquiry wishes to publish a summary of the nature of evidence taken rather than a full transcript, it will confirm with the witness that the text proposed for publication is an accurate reflection of the relevant part(s) of their evidence. In cases where the Inquiry has granted anonymity to a witness, it will confirm with the witness that the text proposed for publication does not contain any information that would reveal their identity.
25. If evidence is given during a private hearing which neither relates to classified documents nor engages any of the categories set out in the Protocol on Sensitive Information, that evidence would be capable of being published, subject to the process outlined above.
26. The transcript of a private hearing – other than any redacted version of it which is published – will remain the property of the Inquiry and will be accessible only by the Inquiry, the witness and, where appropriate, the authorised representative of the relevant department(s)
27. Witnesses will not routinely be provided with transcripts of the evidence given in private hearings by other witnesses where they cover similar subject matter. However, in the interests of fairness, where a witness gives evidence which is potentially adverse to or critical of another witness, the Inquiry will disclose relevant extracts of that evidence to the witness in order to permit him or her to respond to it. Where necessary and appropriate, the identity of the maker of the adverse comment may be disclosed. Disclosure will be effected by the witness viewing the relevant part of the transcript at the Inquiry’s offices.

Further evidence

28. Any witness who wishes to give further evidence should contact the Secretariat. The Inquiry will consider such requests carefully. If the Inquiry wishes to recall a witness, the Secretariat will provide appropriate notice.

Expenses

29. Witnesses who are serving or former Ministers, civil servants or Crown servants (including military personnel) should contact their departments for payment of expenses. In other cases the Inquiry will pay reasonable travel and accommodation expenses of witnesses.

The Inquiry Report

30. If the Inquiry expects to criticise an individual in the final report, that individual will, in accordance with normal practice, be provided with relevant sections of the draft report in order to make any representations on the proposed criticism prior to publication of the final report.