

**PROTOCOL PURSUANT TO RULE 10 OF THE INQUIRY
RULES 2006**

Introduction

1. The purpose of this protocol is to set out how the application of Rule 10 will be managed during the Omagh Bombing Inquiry.
2. For the steps in this protocol to work effectively and fairly, it will require collaboration between all advocates. The Inquiry is an inquisitorial process. All Recognised Legal Representatives ('RLRs') and their advocates will be expected to follow the deadlines in this protocol and approach each step identified in this protocol on the basis that they are assisting the Chairman in his investigation of the matters stated in the Terms of Reference.
3. The procedure and conduct of the Inquiry are matters for the Chairman to direct and this protocol will remain subject to review and revision as necessary. In considering whether to grant a request under Rule 10 the Chairman will consider the requirement to act fairly and to avoid unnecessary cost as required by Section 17 of the Inquiries Act 2005.

Rule 10

4. Rule 10 of the Inquiry Rules 2006 states:

(1) *Subject to paragraphs (2) to (5), where a witness is giving oral evidence at an inquiry hearing, only counsel to the inquiry (or, if counsel has not been appointed, the solicitor to the inquiry) and the inquiry panel may ask questions of that witness.*

(2) *Where a witness, whether a core participant or otherwise, has been questioned orally in the course of an inquiry hearing pursuant to paragraph (1), the chairman may direct that the recognised legal representative of that witness may ask the witness questions.*

(3) *Where —*

- i. a witness other than a core participant has been questioned orally in the course of an inquiry hearing by counsel to the inquiry, or by the inquiry panel; and*
- ii. that witness's evidence directly relates to the evidence of another witness, the recognised legal representative of the witness to whom the evidence relates may apply to the chairman for permission to question the witness who has given oral evidence.*

(4) *The recognised legal representative of a core participant may apply to the chairman for permission to ask questions of a witness giving oral evidence.*

(5) *When making an application under paragraphs (3) or (4), the recognised legal representative must state—*

- i. the issues in respect of which a witness is to be questioned; and*
- ii. whether the questioning will raise new issues or, if not, why the questioning should be permitted*

Scope of this Protocol

5. The Inquiry's oral hearings will be structured so that evidence is heard in Chapters. A copy of the Chapter List is available on the Inquiry's website.¹ The Chapters are as follows:

- a. Chapter 1 (Commemorative and Personal Statement hearing)
- b. Chapter 2 (Core Participant Opening Statements)
- c. Chapter 3 (The Bombing of Omagh)

¹ <https://omagh.independent-inquiry.uk/document/inquiry-legal-team-update-chapter-list-for-oral-hearings/>

- d. Chapter 4 (Previous incidents: overt material)
- e. Chapter 5 (The Peace Process and Security Normalisation)
- f. Chapter 6 (The previous incidents: covert material)
- g. Chapter 7 (Intelligence relating to the Omagh Bombing)
- h. Chapter 8 (Core Participant Closing Statements)

6. All relevant evidence which is not made subject to a restriction order will be heard in public. Such hearings will be referred as being 'open'. Any oral evidence which is made subject to a restriction order which excludes the public and any Core Participants will be referred to as being 'closed'. This protocol only applies to Chapters 3 to 7, whether or not that evidence is heard in either an open or in a closed hearing.

7. Evidence has already been heard on Chapter 1. The process for how that evidence was gathered and adduced was set out in the Commemorative and Personal Statement Protocol.² Chapters 2 and 8 are opening and closing statements from Core Participants as permitted pursuant to Rule 11 of the Inquiry Rules 2006. Separate guidance is available on the Inquiry's website on the process for Core Participant's opening statements.³

Timetable

- 8. This section of the protocol sets out the deadlines for each part of the Rule 10 process.
- 9. The Inquiry will operate - on a rolling basis - a three staged process in the three weeks prior to the week in which the witness is to give evidence. In summary:
 - a. During Week 1: the Inquiry Legal Team will circulate an **Evidence Outline** in relation to each witness who is to give evidence during Week 4
 - b. Tuesday of Week 2: CP to submit **R10 Requests** in respect of the proposed questioning of any witness who is to give evidence during Week 4
 - c. Thursday of Week 3: the Solicitor to the Inquiry will provide a **Response to the R10 Request**
 - d. During Week 4: Witness gives evidence

² <https://omagh.independent-inquiry.uk/document/omagh-bombing-inquiry-protocol-for-the-commemorative-and-personal-statement-hearings/>

³ <https://omagh.independent-inquiry.uk/document/opening-statement-protocol/>

Stage 1: Evidence Outline

10. **21 days before the oral evidence of any witness** the Solicitor to the Inquiry to the will circulate by RLR of all CPs a document which will be referred to as an 'Evidence Outline'.
11. The Evidence Outline will: (i) set out a brief summary of the central evidence of the witness; (ii) provide a short list of the issues or themes the witness will be asked about by Counsel to the Inquiry; and (iii) give references for the documents the witness may be directed to in their oral evidence.

Stage 2: R10 Request

12. **By 4pm on the Tuesday following circulation of the Evidence Outline** for any particular witness, advocates on behalf of CPs (or their RLR) who wish to: (a) seek permission from the Chair to ask questions of that witness; (b) propose new documents to put to that witness (whether by the CP or Counsel to the Inquiry); or (c) propose new topics for Counsel to the Inquiry to ask of that witness, must submit those requests in writing. This will be known as a 'R10 Request'.

Stage 3: Response to R10 Request

13. **By 4pm on the Thursday prior to the witness giving evidence**, notification will be given by the Solicitor to the Inquiry to RLRs and/or their advocates representing CPs about (a) which topics they are, and are not, permitted to ask a witness; (b) any new documents that will be provided in advance to the witness; and (c) any new topics that will be asked by Counsel to the Inquiry. The notification will indicate the time limit set by the Chairman where questioning is agreed for any advocate. The Chairman will require strict adherence to time limits that are set. Failure to comply with time limits will be taken into account when considering further Rule 10 Requests by the same advocate. A response to an indication arising from the Suspect Naming Rule (see below) will also be included.

Content of R10 Request

14. R10 Requests should be submitted in the same format by all CPs. A template for the R10 Request is appended to this protocol. This template must be used.
15. Applications to ask questions of a witness, must set out a summary of any new topic(s) that a CP proposes to explore with a witness, beyond those set out in the Evidence Outline. It must also identify any additional documents it is proposed to put to the witness. In addition, the application should include a short explanation of why

questioning by an advocate other than Counsel to the Inquiry is justified, and the time for questioning sought.

16. Core Participants with a common interest in an issue must liaise with each other on the topics set out in the Evidence Outline prior to the submission of a R10 Request. This is to ensure duplication between teams and identifying 'new' topic areas and documents is avoided. Core Participants may share their own R10 Request with another team before it is submitted to the Inquiry to help identify common issues and minimise duplication. Permission to ask questions by multiple advocates on the same topic will not be granted.
17. It is important that any 'new' documents that a CP wishes to refer to during the hearing are identified in the R10 Request with: (i) the correct INQ reference (ii) a document description and (iii) relevant page numbers to be shared with the witness. This will ensure that an electronic copy of that document is available to the witness in advance of giving evidence.
18. A 'new' document must be identified to ensure that any issues with the sensitivity of the document, including the scope of the redactions applied and the application of any restriction order is identified in advance. It is of paramount importance that no materials are referred to in the hearing room, displayed on screens, shown on any livestream (to the extent agreed by the Chairman) or published on the website unless they have been authorised for that specific purpose. Failure to identify a 'new' document in an R10 Request will mean that it will not be shown in the hearing room.
19. Only the specific page of a document shown to a witness in evidence will, subject to the need for any redactions, be published on the Inquiry website. Material published on the Inquiry website will be treated as having been formally adduced in evidence and will form part of the Inquiry's record of evidence. Only those documents which form part of the Inquiry's record of evidence may be referred to in any Closing Statement.
20. The Inquiry will operate a rule specific to the naming of any suspect ('the Suspect Naming Rule'). The purpose of the Suspect Naming Rule is to ensure that any ECHR right are respected. The Suspect Naming Rule is as follows:
 - a. Any advocate who wishes to have displayed any document which contains the name of any suspect, or who anticipates that the name of any suspect will be mentioned in the course of questioning, must clearly identify this in the R10 Request:
 - i. the suspect name(s) must be identified;

- ii. the pages of any documents which refer to the suspect name(s) must be identified;
 - iii. whether it is anticipated the suspect name(s) will be mentioned as part of a question and/or solicited as part of an answer must be identified;
 - iv. the reason(s) for publicly mentioning the suspect name(s) must be identified; and,
 - v. any factors relevant to the Article 8 balance the Chairman must perform (such as whether or not the suspect has already been publicly named as such) must be identified.
- b. In the event the ILT consider it necessary, attempts may be made to contact the individual in question to seek their views.
- c. In the Response to the R10 Request, the Solicitor to the Inquiry will indicate the Chairman's preliminary view as to whether or not the naming of a suspect (whether by document or orally) is to be permitted. In the event the Chairman's preliminary view is that the public naming of a suspect is not to be permitted, CPs and the media will be permitted to make oral submissions on the point. Such oral submissions will be the subject of interim restriction order, until the matter is the subject of a final determination.
- d. Prior to the start of the Chapter 3 evidence hearings, the Inquiry will circulate to CPs and the media a list of names to which the Suspect Naming Rule will not apply. People included on this list will have been determined by the Chairman to be capable of being publicly named. This list will be kept under review and further names may be added.

21. A copy of a R10 Request provided to the Chairman will not routinely be circulated beyond the Inquiry Legal Team, including with other CPs. It will be held in confidence by the Chairman and the Inquiry Legal Team, save so far as it is necessary to share it with any other CP or material provider to check any issues that arise from the wish to use and refer to any additional document in the hearing. If necessary, an amended copy of the Evidence Outline to take into account a new topic area or document may be circulated to all CPs.

22. It is important for the efficient management of the hearings and the sensitivity of the materials involved in the Inquiry that the rolling deadlines set in this protocol are complied with. It is recognised that it may be necessary, on occasion, for the deadlines

within this protocol to be amended or shortened. For example, if there are changes to the hearing timetable. All those who wish to question witnesses will only be permitted to do so where they have submitted, in advance, a Rule 10 Request in accordance with the deadlines set out in this Protocol.

23. Pursuant to Rule 10(2), an advocate instructed on behalf of a witness, will be permitted to ask their own witness clarification questions following examination by Counsel to the Inquiry. A detailed Rule 10 Request is not necessary, but an indication should be provided in advance whether there is an intention to ask questions, any additional documents relied on that are not set out in the Evidence Outline and how much time is requested. Save in exceptional circumstances, the time for questions by an advocate acting pursuant to Rule 10(2) shall be no more than 15 minutes.

Conclusion

24. In addition, and in conjunction with this protocol, Counsel to the Inquiry has expressly invited discussion and collaboration with advocates on an ongoing basis to ensure that the Chairman can be assisted to answer the questions within the Terms of Reference.
25. Save for exceptional reasons, the Chairman expects that advocates asking questions (however briefly) of any witness will attend the hearing in person to do so. Virtual attendance by advocates will otherwise be permitted, subject to the availability of video link facilities, and left to the discretion of advocates and their clients.
26. All advocates are asked to reflect carefully on when they wish to submit a Rule 10 Request. Rule 10 Requests from all advocates must be designed to assist the Chairman and must not add to the overall length of time that a witness is listed to give evidence.

Inquiry Legal Team
9 July 2025