

Omagh Bombing Inquiry: Protocol on vulnerable witnesses

Introduction

1. The purpose of this protocol is to set out the principles and processes that will guide the Inquiry in its management of vulnerable witnesses. The Inquiry recognises that each witness should be able to engage with the Inquiry with dignity and is supported to give evidence to the best of their ability. This protocol is intended to give effect to the Chairman's intention that each and every witness is able to give their best evidence.
2. The Inquiry places the wellbeing of those who engage with it at the centre of the evidence gathering process and acknowledges that the giving of evidence may be challenging for many people.

Definition of a witness

3. A witness is any person who gives evidence to the Inquiry, whether they are a Core Participant or not. For the purpose of this protocol 'giving evidence' includes preparing for, making, editing and approving any statement provided to the Inquiry and giving oral evidence.

Definition of vulnerability

4. The term 'vulnerable witness' is used widely across different types of proceedings. It is a term that the Inquiry has adopted to capture a wide range of witnesses who may benefit from support and assistance to ensure that they can engage with the Inquiry in an effective and safe way. The Inquiry does not intend to cause any harm or distress by using the term 'vulnerable'. It is used to capture a wide range of witnesses who may benefit from additional support to ensure that their evidence is taken in a manner which reduces risk of harm to them.

5. A person shall be considered a vulnerable witness if, by reason of their experiences, and/or personal characteristics they:
 - a. experience added stress or other difficulty in being a witness or potential witness;
 - b. suffer a likely detrimental effect in the quality of any statement or evidence which they give;
 - c. require greater support and/or measures to ensure their effective participation; and/or
 - d. are at risk of their mental health being adversely affected because of giving evidence.

Identifying vulnerable witnesses

6. Characteristics which may give rise to vulnerability may include, but are not limited to, age (in particular those under the age of 18), a recognised mental or physical disability or disorder; a learning difficulty or language impairment; or any issue or condition which affects the ability of the individual to participate as a witness to the Inquiry.
7. Anyone who may be a witness (or who is representing a witness) who is or may be vulnerable should notify the Solicitor to the Inquiry as soon as practicable to inform them of the vulnerability, its impact on the witness' ability to give evidence, whether an independent health assessment has been requested and identify any special measures that may be appropriate.
8. It is important that anyone who is or may be vulnerable is identified as such at the earliest opportunity. All witnesses who are to be called to give oral evidence will be asked to notify the Solicitor to the Inquiry of any matters that may impact upon their ability to give evidence. Any changes in an individual's vulnerabilities or needs should be communicated to the Solicitor to the Inquiry as soon as practicable.

Measures to assist vulnerable witnesses

9. Where the Chairman determines that a witness is vulnerable within the meaning of this protocol, he may direct that measures are put in place to assist a witness to give evidence and to improve the quality of their evidence ('special measures'). Before making any direction, the Chairman will ascertain and take into consideration the views of the witness on the appropriateness and nature of the special measures and, if appropriate, the views of Core Participants.

10. The Chairman has a wide discretion to make such directions as he considers necessary to ensure effective participation. They may include, but are not limited to, one or more of the following:

- a. the appointment of an intermediary: the Inquiry may appoint an intermediary to assess (and report upon) the additional needs of any witness, to assist with the making of a statement and/or to assist the individual when giving evidence;
- b. the appointment of an interpreter;
- c. the giving of evidence via a live link from a location other than the Inquiry venue;
- d. screens to shield the witness from public view;
- e. the making of a recorded interview;
- f. providing advance written notification of questions to a witness;
- g. the support of a friend, relative or other appropriate adult to accompany the witness at the Inquiry venue. Any such person shall play no part in the witness giving evidence unless directed to do so by the Chairman;
- h. regular breaks at prescribed times.

Anonymity

11. Applications for anonymity should be made separately to the Chairman, in accordance with the Inquiry's protocol on Restriction Orders: anonymity.

Assistance with vulnerability issues

12. The Inquiry Legal Team includes counsel and solicitors who have experience in dealing with vulnerable witnesses and individuals. They may be contacted by any witness or legal representative who would like to discuss this protocol at any time.

13. The Inquiry Legal Team encourages all advocates to review the toolkits available on the [Advocates Gateway](#). The principles set out there are fundamental to the fair and sensitive treatment of vulnerable witnesses and advocates will be expected to act in accordance with them at all times.

14. A further useful and important resource with which all those involved in representing Core Participants (whether as an advocate or otherwise) should be familiar is the [Judicial College Equal Treatment Bench Book](#).

Privacy Notice

15. Information and personal data collected as part of this protocol will be used by the Inquiry to put in place the practical arrangements and any special measures to allow the Chairman to investigate the matters that fall within the Inquiry's Terms of Reference.
16. Personal data provided to the Inquiry may be shared with other organisations or services that are involved in or supporting the Inquiry with witness liaison but only to the extent that they need to know.
17. More information about how the Inquiry processes personal data, including details of the Inquiry's Data Protection Officer, is available in the Inquiry's [Privacy Policy](#).

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