

## INQUIRY LEGAL TEAM NOTE

### (CLOSED MATERIAL RESTRICTION ORDERS)

#### **Introduction**

1. This Note is provided to set out the process for Closed Material Restriction Order (CMRO) applications in the Omagh Bombing Inquiry (the Inquiry).
2. The Inquiry has already received, and will continue to receive, a large volume of documentation. It is plain from material already received that a proportion of these documents contain sensitive information which it may be said is not capable of being disclosed to the public, media or all CPs. Such documents will be referred to as ‘provisionally closed documents’.
3. It is essential that a practical process is established to ensure that CMRO applications for provisionally closed documents can be determined fairly, taking into account the views of CPs and the accredited media, and in such a way as to avoid disproportionate delay to the substantive progress of the Inquiry.
4. The process for CMRO applications addresses documents which are contended to be too sensitive (whether in whole or in part) to be handled using the Operationally Sensitive Restriction Order (OSRO) procedure and which are contended not to be capable of being disclosed to all CPs on the basis that any such disclosure would be contrary to the public interest having regard in particular to the matters mentioned in section 19(4) of the Inquiries Act 2005.
5. The process described in this Note does not address applications for anonymity, which process is governed by the Inquiry’s [Anonymity Protocol](#). A Note of the Inquiry Legal Team addressing the process for applications for Restriction Orders for anonymity will be published in the near future.

6. This Note comprises two parts:
- a. In Part 1 the Inquiry’s commitment to openness, which is particularly important in the context of closed material, is repeated;
  - b. In Part 2 the process for the determination of CMRO applications is set out.

**Part 1: The Inquiry’s commitment to openness**

7. The Inquiry’s commitment to openness and transparency has been stated on a number of previous occasions. Most recently, in his ruling on the OSRO process the Chairman stated:

*“7. Openness is at the heart of our system of justice and is vital to the rule of law (R (Guardian News and Media Ltd.) v City of Westminster Magistrates Court [2013] QB 618; Cape Intermediate Holdings Ltd v Dring [2020] AC 629 and A v BBC [2015] AC 588.). The principle of open justice applies equally to those conducting quasi-judicial inquiries (Kennedy v Charity Commission [2014] UKSC 20). Openness, so far as possible, is embedded in section 18 of the Inquiries Act 2005 (‘the Act’)) and is a core component of the requirement in section 17 for me to act fairly.*

*8. I am committed to holding as much of the Inquiry as possible in public. This commitment has been a guiding principle of the Inquiry since it began and was expressed in my public statement on 21 February 2024 on the Terms of Reference:*

*“My starting principle is that hearings will be held in public and broadcast live on the Inquiry’s website unless it is necessary in the public interest and for reasons of national security that they be held in private.*

*The nature of the issues we are investigating will inevitably require us to look at sensitive information. Some of this work may need to be done in private and I may need to hold what are known as closed hearings, where the public and others engaged in the Inquiry may not be able to attend. I will only do this where I am satisfied it is absolutely necessary to get to the truth.*

*I will scrutinise every request and, if closed hearings are necessary, I will work to ensure that as much information as possible about the closed hearings is made public. There will be legal issues I need to consider but I intend to bring as many details as I can about the intelligence issues around the Omagh Bombing that are within the Terms of Reference into the light.”*

9. *The commitment to openness is and must be more than just words: it is and will be central to every decision I make. I recognise that providing CPs with as much information as possible, involving the media, conducting public hearings and acting with transparency are essential to achieving this goal.”*

8. It is recognised that there is an important distinction to be drawn between OSROs and CMROs so far as CPs, particularly the Bereaved Families and Survivor CPs, are concerned. Whereas in the former circumstances, all CPs are able to see the material, subject to strict handling conditions, in the latter circumstances most CPs will be excluded from disclosure. For this reason, there is an enhanced need for robust scrutiny of assertions made in closed, so as to ensure the maximum amount of information is provided to all CPs.

## **Part 2: process for CMRO applications**

9. The process set out below allows the Chairman to test and rule on an initial tranche of provisionally closed documents. This process will result in a ruling -

both open and closed - identifying a set of defined categories of sensitivity (CMRO Categories), many of which are likely to recur across the provisionally closed documents.

10. Based on the ruling, CMRO Applicants and the ILT will be able to reach informed views, when considering subsequent provisionally closed documents, as to whether the Chairman is likely to consider certain redactions to fall inside, or outside, the CMRO Categories. This approach will ensure that the CMRO process will operate efficiently, robustly and fairly, and will ensure that it does not result in unacceptable delay.
11. At any stage, in the event that there is not complete agreement between the ILT and the CMRO Applicant that the provisionally closed documents over which a CMRO is sought fall squarely within one of the CMRO Categories, then a specific application and decision from the Chairman would be required.
12. It is also recognised that in exceptional circumstances it may be necessary to adopt bespoke arrangements. This can be addressed on a case-by-case basis, but that possibility does not detract from the benefits of agreeing a process of general application which will deal with almost all, if not all, situations.
13. The process to establish CMROs will involve the Chairman inviting and considering closed applications and provisionally closed documents. This is necessary to enable the Chairman to consider the closed details and justifications for each CMRO application without undermining its purpose (i.e. to protect the public interest). An open CMRO application, containing as much information as possible, must be submitted.
14. In this document:
  - a. a CMRO Applicant is any Material Provider (who may or may not be a CP) who has disclosed to the Inquiry any provisionally closed document and

who contends that there are grounds to withhold disclosure of that provisionally closed document from any other CPs.

- b. a CMRO Respondent is any CP or accredited media organisation wishing to make submissions or observations in relation to any CMRO application. It includes other CMRO Applicants who are entitled to make submissions or observations on the CMRO applications made by those other than them.

***Minimum restriction possible***

- 15. CMRO Applicants must approach all applications by first considering whether the risk of harm or damage they identify can be adequately protected by the redaction of individual words, sentences, paragraphs and/or pages. Such an approach is consistent with the requirements of section 18 and with the objective of ensuring that as much of this Inquiry is conducted in open as is possible.

***Candour, transparency and frankness***

- 16. When determining CMRO applications, the Chairman must be fully informed regarding the extent of publicly available information concerning any subject over which a CMRO is sought. This includes information already released through previous court proceedings, the media, publications or official investigations and reports. All CMRO Applicants must act with candour, transparency and frankness, noting in particular the proposed scope of the duty of candour that is currently proposed to apply retrospectively to public authorities and public officials dealing with an inquiry in the Public Office (Accountability) Bill.<sup>1</sup>

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<sup>1</sup> [Public Office \(Accountability\) Bill](#)

17. In this context, candour requires in particular, but is not limited to, CMRO Applicants taking reasonable steps to identify any material which is in the public domain, to any extent, and which may be relevant to the determination of the CMRO application.
18. The candour obligation applies from the point of application and continues after any CMRO which may be granted.
19. All CPs are required to remind themselves of the Chairman's expectations as set out in the [Opening Statements' Protocol](#) at paragraphs 8 to 12.

***Initial tranche of provisionally closed documents***

20. The following steps apply to the initial round of CMRO applications.

Stage 1: The ILT to provide a closed note to Material Providers who have disclosed to the Inquiry provisionally closed documents, identifying a provisional list of closed CMRO Categories over which sample CMRO applications are invited by **31 January 2026**. The ILT to publish on the Inquiry website and circulate an open note to all CPs setting out the relevant legal principles for CMROs by **31 January 2026**.

Stage 2: The ILT to identify sample documents from within the provisionally closed documents illustrative of the provisional closed CMRO Categories and provide these to relevant Material Providers by **28 February 2026**.

Stage 3: CMRO Applicants to identify additional sample provisionally closed documents within the cohort of their provisionally closed documents which are obviously relevant and over which it is contended that a CMRO should be granted. CMRO Applicants to identify any further potential closed CMRO Categories with

example provisionally closed documents. Sample provisionally closed documents, further potential closed CMRO Categories and connected example documents to be provided to the Solicitor to the Inquiry by 4pm on **31 March 2026**.

Stage 4: The ILT and CMRO Applicants to agree a list of closed CMRO Categories which the Chairman will be asked to consider at Stage 9 below. Following consultation with CMRO Applicants, the ILT to prepare a list of open CMRO Categories. The Solicitor to the Inquiry to publish on the Inquiry website and circulate a list of open CMRO Categories to CMRO Respondents by 4pm on **27 April 2026**.

Stage 5: CMRO Applicants to serve closed CMRO applications and open CMRO applications on the Solicitor to the Inquiry by 4pm on **29 May 2026**. The closed CMRO applications should: (i) provide evidence and submissions supporting the open and closed list of CMRO categories; (ii) provide evidence and submissions explaining the application of the CMRO categories to the sample provisionally closed documents; (iii) comply with the duty of candour by explaining, particularly, the extent of publicly available information concerning any subject over which a CMRO is sought; and (iv) address any other relevant matters of law or procedure. The open CMRO applications should address each of (i) to (iv) to the extent consistent with the need not to undermine the basis for the applications.

Stage 6: CMRO Respondents to serve any responses to the CMRO applications on the Solicitor to the Inquiry by 4pm on **11 July 2026**. The CMRO responses should: (i) respond to the open list of CMRO categories and the supporting evidence; (ii) provide any evidence or submissions which assist the Chairman's analysis of the 'public

interest' balance; (iii) address, particularly and so far as possible, the extent of publicly available information concerning any subject over which a CMRO is sought; and (iv) address any other relevant matters of law or procedure. Practical handling arrangements of these submissions and any associated evidence to be confirmed in due course, together with the making of any necessary restriction order.

- Stage 7: The Solicitor to the Inquiry to circulate all open documents relevant to any CMRO application to all relevant persons by 4pm on **7 August 2026**. The Solicitor to the Inquiry to circulate all closed documents relevant to any CMRO application to all persons entitled to receive them by 4pm on **7 August 2026**. Further directions to be issued in closed in relation to issues such as cross-service and joint bundle.
- Stage 8: The ILT to respond to open and closed CMRO applications and any other submissions or observations by 4pm on **24 August 2026**.
- Stage 9: Open hearing for CMRO applications to be listed w/c **7 September 2026**. Closed hearing for CMRO applications to be listed w/c **14 September 2026**.

### ***Ongoing applications***

21. Once the Chairman has ruled on the sample CMRO applications, CMRO Applicants should submit subsequent CMRO applications by reference to the closed CMRO Categories. This would be done by referencing in a schedule the applicable closed CMRO Categories that have already been the subject of consideration and determination by the Chairman, provided they can be applied to new documents in a clear and uncontroversial way. Where the CMRO application is for redactions to part of a document rather than a whole



document, then the CMRO Applicant will be required to identify the relevant closed CMRO Category for each redaction.

22. Importantly, the ILT will rigorously scrutinise each and every application and document to which it is asserted to apply. If any doubt arises that a document (or part of it) does not properly fit within one of the closed CMRO Categories as reflected in the Chairman's determination, then the CMRO Applicant will be required to submit a bespoke application to the Chairman supported by evidence.
23. The ILT will continually review the process to ensure that as much as possible about the application process is addressed in open without undermining the purpose of the application, and the ILT will endeavour to produce regular updates to CPs on the working of the process and the scale of material being considered.
24. Any subsequent CMRO application which raises issues or CMRO Categories not canvassed during the initial CMRO applications is likely to require a further hearing, both in open and closed so that all CPs and the accredited media can participate.
25. All provisionally closed documents which are subject to an unsuccessful CMRO application will be disclosed or gisted to all CPs on Relativity and can, if appropriate, be subject to the OSRO process.

**INQUIRY LEGAL TEAM**

**14 January 2026**

**ANNEX A**

**(CLOSED MATERIAL DISCLOSURE PROCESS)**

*The process set out below is applicable to those Material Providers who are providing provisionally closed document. Nevertheless, it is set out for the benefit of all Core Participants as part of the Inquiry's commitment to openness and transparency.*

1. The Inquiry Team consists of Counsel, Solicitors and Secretariate members, the majority of whom hold Developed Vetted (DV) Security Clearance which allows them to have them to have frequent and uncontrolled access to SECRET and TOP SECRET material.
2. All CPs should be assured that the arrangements that have been put in place mean that there are no practical security barriers to the Inquiry receiving all relevant material from Material Providers regardless of its sensitivity or the government protective marking. This is obviously important and means that the Inquiry has the capability to scrutinise every aspect of UK State decision-making, relevant to the Terms of Reference, regardless of its sensitivity.
3. The ILT has already started the process of gathering provisionally closed material by issuing Rule 9 requests to CPs. This includes, but is not limited to, the Northern Ireland Office, UK Intelligence Community, Ministry of Defence, and Police Service of Northern Ireland. The majority of the material received in response has a government protective marking of SECRET or TOP SECRET.  
There are three points to note:
  - a. *First*, the fact that the material is provided on the secure Inquiry computer systems is not a relevant factor in the determination of relevancy or any CMRO application. Rather, the provision of the material on the secure Inquiry computer system is a practical step to ensure that the ILT can

receive the material quickly to conduct a relevancy review without a requirement to consider the sensitivity of the document in advance, which would inevitably cause very substantial delay. If the ILT identifies that any obviously non-sensitive material has been provided on the secure ILT computer system, then a request will be issued to the CP who provided the document to correct the position and transfer the document to Relativity.

- b. *Second*, the Government Security Classifications (OFFICIAL, SECRET, TOP SECRET) are indicative but not determinative of the sensitivity of the document or the requirement for a CMRO application. Regardless of the protective security marking, the Material Provider will be obliged to justify, through the CMRO application process, why the document cannot be disclosed to all CPs.
- c. *Third*, the term ‘provisionally closed document’ is intended to provide clarity and should not be taken to indicate any predetermination of the need for the document or any part of its content which is identified as relevant to remain closed.

4. The requirements imposed on Material Providers disclosing provisionally closed material are as follows:

- a. Each tranche of disclosure must be accompanied by a spreadsheet which includes the following fields against each document:
  - i. It must be given a Unique Reference Number, which number will include reference to the organisation, department or directorate disclosing the document to the Inquiry;
  - ii. A summary of the content of the document must be provided;
  - iii. The date on the face of the document must be identified;

- iv. The protective marking on the face of the document must be set out;
  - v. Any asserted protective marking – if it is not the same as the protective marking on the face of the document – must be included;
  - vi. If the document is missing any pages, attention must be drawn to this;
  - vii. If a document can only be disclosed in hardcopy, this must be indicated and explained;
  - viii. A page count must be recorded.
- b. Each document must be scanned in 300 DPI;
  - c. Each document must, so far as possible, be provided in a ‘text-searchable’ format;
  - d. Each document must be reproduced in a manner consistent with the original (eg: double-sided document must be double-sided; blank spaces on original documents must remain blank);
  - e. The Inquiry must be notified by email on the secure Inquiry computer systems on the day of any disclosure;
  - f. All originals must be retained;
  - g. Nothing of potential relevance to the Inquiry must be destroyed;
  - h. A disclosure statement will be required from a senior person in each organisation making disclosure, setting out the approach taken to disclosure and attesting to the rigour and thoroughness of the process.

5. Once a provisionally closed document is received by the Inquiry on the ILT secure computer system, it will be scheduled and reviewed to determine if it is relevant. This relevancy assessment will ignore the government protective security marking or any perceived sensitivity and is based exclusively on the [Terms of Reference](#) and [Provisional List of Issues](#).