

# Anonymity Protocol

## Introduction

1. This protocol sets out the approach that will be taken by the Patrick Finucane Inquiry (the Inquiry) to the determination of an application for anonymity by any person. It is to be read together with the [Inquiries Act 2005](#) (the Act), the [Inquiry Rules 2006](#) (the Rules) and the other protocols which have been published on the Inquiry's website. In particular, it should be read in conjunction with the [Inquiry's Redaction of Documents Protocol](#), [Documents Protocol](#), [Restriction Order Protocol](#), and [Privacy Policy](#).
2. The purpose of the protocol is to ensure that everyone who is involved in the Inquiry understands the procedural approach and the steps which need to be taken if they want to request anonymity from the Chair.
3. The procedures outlined below are not intended to cover every eventuality or every procedural issue that may arise. It follows that, in exceptional cases, where the interests of justice and fairness require it, the Inquiry may need to depart from this protocol. Further, this protocol may be amended from time to time, in which case an amended version will be published on the Inquiry website.
4. In this protocol, "anonymity" means the protection of a person's identity, or anything which may tend to identify them, from disclosure to those who are (a) designated as Core Participants and/or (b) the wider public.
5. A person's identity may be protected from disclosure from Core Participants and/or the wider public by:
  - a. The application of redactions to Documents to remove information which may tend to identify them;

- b. The application of a cipher (e.g., A1, B2, etc.) in place of their name; and
  - c. Measures to protect how the witness gives evidence so they cannot be identified and/or their identity publicly reported.
6. Anonymity is not to be confused with special measures, which are aimed at assisting vulnerable witnesses to give best evidence. Special measures and the assistance otherwise available to assist a vulnerable witness is explained in the Inquiry's [Vulnerable Witness Protocol](#).

## Legal framework

7. The Act and the Rules set out how the Inquiry should approach the handling and publication of any information it obtains.
8. The Inquiry is committed to being as open and transparent as can be. In accordance with section 18 of the Act, the Chair will take reasonable steps to ensure that members of the public are able to view Documents provided to the Inquiry and attend hearings, subject to the restrictions in the Act and as provided for below.
9. The Chair will determine which Documents will be published on the Inquiry's website. In considering this matter, he will have regard to whether the Document has been displayed in the Inquiry's public hearings or otherwise referred to in evidence.
10. Section 19 of the Act provides that restrictions may be imposed on the disclosure or publication of any evidence or Documents given, produced or provided to an inquiry. The restriction order process applies to applications for anonymity and shall be referred to as an "Anonymity Restriction Order".
11. Restrictions may be imposed if the Chair considers those restrictions are conducive to the Inquiry fulfilling its Terms of Reference or to be necessary in the public interest, having regard to the relevant factors in the Act and the Rules.
12. The Inquiry will respect data protection and privacy rights in accordance with its obligations as a data controller under the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018.

## Requests for anonymity

13. All applications for, and correspondence about, an Anonymity Restriction Order under section 19 of the Act must be made in writing and should be sent to the Solicitor to the Inquiry at [solicitors@finucane.independent-inquiry.uk](mailto:solicitors@finucane.independent-inquiry.uk) Other ways to contact the Inquiry can be found on the Inquiry's website (see [Contact Us](#)).
14. Applications for Anonymity Restriction Orders may be made at any time during the course of the Inquiry, but there will be a strong presumption that applications are to be made at the earliest opportunity. This is to ensure fairness to the applicant, Core Participants and the media, and to ensure that any Orders made are effective.
15. If the application for an Anonymity Restriction Order is made in response to a request for a witness statement, the application should be made when submitting a witness statement or otherwise in accordance with the timetable and directions made by the Chair.
16. An application for an Anonymity Restriction Order must be set out in the following form:
  - a. An open application
    - i. It must include the subjective assessment by the applicant of the risk of harm or damage if their identity is disclosed.
    - ii. It must state from whom it is proposed the identity of the applicant is to be withheld (whether just the public or whether it is proposed it also applies to Core Participants).
    - iii. It must identify the restriction(s) sought to provide appropriate protection to the applicant.
    - iv. It must provide as much detail as possible without defeating the purpose of the application.
    - v. It must be drafted in expectation that it will be published;
  - b. A closed application

- i. It must provide all remaining information about the application and grounds on which it is made;
    - ii. In the event it is proposed that the application is withheld from Core Participants, as well as the public, it must give justification for this and for why the confidentiality undertaking signed by Core Participants is said to be insufficient;
  - c. Supporting evidence, which, if necessary, may also be provided in open and closed form. The supporting evidence should include an objective assessment of the risk posed to the individual if they are not granted anonymity.
17. Some applicants may have already been identified to an extent in open source material, or may remain identifiable to those with prior knowledge of the matters in question if their name is anonymised. If the identity of the applicant is publicly known, for example through press reporting or media interviews, that information should be identified in the closed application and an explanation provided why that information does not support the presumption that the identity of the witness should be disclosed. The extent of the existing disclosure and the consequent efficacy of any Anonymity Restriction Order will be taken into account by the Chair in making a determination.
18. Upon receipt of an application in the above form, and subject to paragraph 23 below, the Inquiry will follow the general process set out below:
  - a. The Inquiry 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 version. If there is a dispute, the Chair will be asked to decide.
  - b. The open sections of the application and any evidence in support will be served on Core Participants to which the application relates (and potentially on representatives of the media, where appropriate) subject to confidentiality undertakings. The Chair may issue a “minded to” decision when circulating the application.
  - c. The closed sections of the application and any evidence in support may, if appropriate to do so, be served

on Core Participants (and potentially on representatives of the media) subject to confidentiality undertakings. The Inquiry Legal Team will consult with the applicant as to whether such disclosure should be permitted. The Chair will decide whether, and on whom, to serve this material in the light of all the circumstances, including any representations made by the applicant, the sensitivity of the material and the importance of the material to the issues in the application. Consideration will be given as part of this process to the possibility of serving redacted versions and/or “gists” of the closed sections of the application and supporting evidence.

- d. The Chair may invite Core Participants (and, where appropriate, representatives of the media) to file written submissions in response to the application (and “minded to” decision if applicable).

19. In response to an application for an Anonymity Restriction Order, the Chair may:

- a. Invite Counsel to the Inquiry to file written submissions in response to the application (and “minded to” decision if applicable); and/or
- b. 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.

20. 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. If the application is successful, an Anonymity Restriction Order will be made setting out the basis on which the anonymity is granted.

21. It is a matter for the Chair to determine what identifying information should be anonymised. Relevant information could include a person’s name, address, date of birth, job title, image, or other such identifying information as the Chair considers necessary to give effect to the Anonymity Restriction Order.

## Anonymity direction where no request has been made

22. In appropriate cases, the Chair may direct that an Anonymity Restriction Order apply in respect of a person who has not made an

application for an Anonymity Restriction Order. Where such circumstances arise, the Chair will take reasonable steps to ensure that suitable safeguards are put in place, including the publicisation of any such direction.

### *Privacy notice*

23. 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 Chair to investigate the matters that fall within the Inquiry's Terms of Reference. Please see the [Privacy Policy](#) for further information.