

Witness Statements Protocol

Introduction

1. This protocol sets out the approach that will be taken by the Patrick Finucane Inquiry (the Inquiry) to the taking of witness statements. 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.
2. 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.
3. The Chair will decide whom to invite to give written or oral evidence (or both), irrespective of whether that person has been designated a Core Participant. The Inquiry welcomes approaches from those who believe they have relevant evidence to give. The means by which a person can contact the Inquiry are set out on the Inquiry's website (see [Contact us](#)).
4. If the Chair considers that a person may be able to give evidence that is likely to be of assistance in fulfilling the Inquiry's Terms of Reference, the Solicitor to the Inquiry or someone acting on his behalf will take steps to determine whether that person's evidence might assist the Inquiry. The Inquiry does not undertake to accept evidence from every person who approaches it in this regard.
5. All those who appear to be able to give relevant evidence will be asked to provide to the Inquiry a written statement which follows the format and structure for witness statements described in the Annex to this protocol.

Definitions

6. In this protocol:
 - a. A “Core Participant” is a person, an organisation or other entity with a significant interest in the Inquiry and is designated a Core Participant in the Inquiry pursuant to Rule 5 of the Rules (see the [Core Participants Protocol](#));
 - b. “Disclosed” means made available to Core Participants and (in some instances) to persons from whom the Inquiry proposes to take evidence, subject to a strict undertaking to the Inquiry of confidentiality by the recipient of the disclosure (and their Recognised Legal Representative (RLR), if any), not to reveal the information to others;
 - c. “Published” means made available on the Inquiry website, which is accessible by members of the public, or published as part of any interim or final report; and
 - d. A “witness” is a person from whom the Chair intends to take written or oral evidence.

Scope

7. The purpose of this protocol is to ensure that:
 - a. Witnesses (and, where applicable, their legal representatives) understand the process by which the Inquiry will seek to obtain written witness statements;
 - b. Written witness statements conform to a common standard and are provided to the Inquiry in a form which will best enable it to understand the matters to which they relate; and
 - c. To explain how the Inquiry can assist with the preparation of written statements.

Request for a witness statement

8. Where the Inquiry proposes to take evidence from a person or wishes to obtain further evidence from a witness who has already provided a statement, it will send that person a written request for evidence pursuant to Rule 9 of the Rules (“Rule 9 Request”).

9. Rule 9 Requests will be issued in writing by the Inquiry Team on behalf of the Chair. They will be sent directly to a witness, unless the witness has appointed a qualified lawyer to act on their behalf and the Chair has designated the lawyer as that witness's RLR. In those circumstances, the Rule 9 Request will be sent to the RLR.
10. The Rule 9 Request will include a description of the matters or issues to be covered by the written statement. The Inquiry will also instruct that the statement be provided by a particular date.
11. The contents of any Rule 9 Request are confidential and the recipient (including their legal representative if applicable) is not to disclose, publish or pass the Request on to any third party, save with specific written permission of the Chair or someone acting with his delegated authority. This includes discussing the Request itself, or answers to any of the questions, with third parties (including other potential witnesses). This is important to ensure the integrity of the evidence before the Inquiry is maintained.
12. For the avoidance of doubt, the recipient of a Rule 9 Request may share that request with their RLR (and vice versa) without seeking the permission of the Chair. If the recipient of a Rule 9 Request wants to share that request with a lawyer or other representative who is not their RLR, they must seek the Chair's permission.

Responding to a request for a witness statement

13. A witness may draft their own statement or may seek assistance from a lawyer or other representative. A witness who is legally represented will ordinarily be expected to obtain assistance in drafting their statement from their RLR. Where a witness is assisted by a lawyer, they should state this within the body of the statement (and where the lawyer/law firm also represents a Core Participant this should also be made clear).
14. Where a Rule 9 Request has been sent to an organisation (via the organisation's RLR), the statement in response should come from a person with sufficient authority to speak on behalf of the organisation (for example, a director in a company or public body or a senior official in a relevant area of responsibility). The person who fulfils that role as a corporate witness may seek assistance and include information from others within the organisation. The corporate witness must identify the individual(s) and part(s) of the statement where such assistance has been sought and

information provided. The Chair may also send Rule 9 Requests to any such named individual where he considers this to be appropriate.

15. If a witness in receipt of a Rule 9 Request requires assistance in drafting a statement, the witness should contact the Inquiry as soon as possible and, in any event, within 14 days of receipt.
16. When responding to a Rule 9 Request, a witness is expected to include within their statement evidence relating to all matters or issues described in the request. The witness may refer in the statement to Documents which are relevant to the Inquiry's Terms of Reference. Any such reference(s) should comply with the requirements of paragraph 8 of the Annex to this Protocol.
17. The Chair expects witnesses and their employing organisations to be candid in providing their statements. This includes being open and transparent in their statements, as well as reflective in analysing their involvement.
18. Witnesses should give a detailed account engaging fully and constructively with the issues raised in the Rule 9 Request, as well as drawing to the Chair's attention any other matters relevant to the [Terms of Reference](#) and the witness's involvement which is not covered in the Rule 9 Request.
19. The Inquiry will not enter into protracted correspondence nor entertain delay in the Rule 9 Request process. If a matter is raised in the Rule 9 Request with which the witness was not involved, the witness should make this clear in their response, rather than seeking to challenge the Rule 9 Request.
20. The witness statement must be:
 - a. Written in the witness's own words;
 - b. Approved by the witness as being complete and accurate; and
 - c. Supported by a statement of truth as required by paragraph 7 of the Annex to this protocol.
21. Unless otherwise specified in the Rule 9 Request, a witness should provide an unsigned statement in draft to the Solicitor to the Inquiry by email at solicitors@finucane.independent-inquiry.uk, which the Inquiry will consider with a view to deciding whether:

- a. The evidence within the draft statement needs to be clarified and/or further evidence needs to be provided; or
 - b. The witness should be asked to sign the draft as a final written statement and submit it to the Inquiry in electronic Word format.
22. If the Inquiry considers that the evidence within the draft statement requires clarification and/or further evidence needs to be provided, the Inquiry will send a further Rule 9 Request to the witness identifying the matters which need to be addressed and will either ask for a further draft statement from the witness or a final signed statement, as may be appropriate.
23. Where the Inquiry requests that a witness statement is signed as a final statement, the witness should return the signed statement within 7 days.
24. Except with the express permission of the Chair, a witness cannot withdraw or change their statement once it has been signed. However, a witness may make a further statement, voluntarily, to correct or supplement something previously said.

Time limit for complying with a request

25. The Rule 9 Request, or a letter accompanying it, will set a time limit for compliance. Time limits may vary depending on the nature and extent of the evidence sought. The Inquiry will consider an application for an extension of time if there is a good reason why a witness will be unable to comply with the time limit. An application for an extension of time must be made in writing by email to the Solicitor to the Inquiry as soon as possible and, in any event, before the expiry of the period specified in the Rule 9 Request.

Statement in a language other than English

26. Where a witness wishes to make a statement in a language other than English, the statement should be provided to the Inquiry in its original form. A witness who is legally represented should also provide a certified translation of their statement made by a qualified translator. If the witness is not legally represented, the Inquiry will obtain a translation and will take such steps as it considers appropriate to ensure that the witness is satisfied that their evidence is correctly captured by the English version.

27. Where a witness is able to give written evidence in English, but, if called to give evidence in person, is able to demonstrate that, in order to give their best evidence it is necessary for oral evidence to be given in a language other than English, the witness statement should state clearly the need for a translator and identify the language in which any oral evidence is to be given.

Disclosure and publication of witness statements

28. The Inquiry is committed to being as open and transparent as it 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.

29. Where a Rule 9 Request has been issued, the witness must provide a witness statement and disclosure to the Inquiry regardless of whether they consider that onward disclosure or publication of part of their witness statement and supporting Documents would be unlawful. In those circumstances, the witness must, when submitting their witness statement and supporting Documents to the Inquiry, clearly identify the relevant parts and explain why they consider further disclosure or publication would be unlawful.

30. Any witness who wishes to have their identity (or any of their evidence) withheld from disclosure or publication must apply for a restriction order when submitting their statement to the Inquiry. This request will be dealt with in accordance with the Inquiry's protocols on [Redactions](#), [Anonymity](#) and [Restriction Orders](#).

31. The Inquiry will ordinarily disclose only the witness's final signed statement and not any draft statements. However, if a witness refuses to return a signed statement, or delays to an unacceptable extent in returning such a statement, the Inquiry may proceed to disclose any draft statement(s) produced by the witness.

Procedure for failure by a witness to respond to a Rule 9 Request

32. The Chair expects that any person to whom a Rule 9 Request is addressed will cooperate fully with the Inquiry and provide all relevant material. However, if the response to such a request is

refused, incomplete, or not provided by the deadline set out in the Rule 9 Request, the Chair will consider exercising his powers to require the provision of evidence under section 21 of the Act. This includes the provision of a witness statement within such period as seems reasonable to the Chair (under section 21(2)(a)).

33. The Chair may also issue a notice to a witness:

- a. To attend at a time and place to give evidence (under section 21(1)(a) of the Act);
- b. To produce any Document(s) in the custody or under the control of the witness that relates to a matter in question at the Inquiry (section 21(1)(b)); or
- c. To produce any other thing in the custody or under the control of the witness for inspection, examination or testing on behalf of the Chair (section 21(1)(c)).

34. A person may claim that they are unable to comply with the notice or that it is not reasonable in all the circumstances for them to comply with such a notice (under section 21(4) of the Act). The Chair will determine any such claim and may revoke or vary a notice. In doing so, the Chair will consider the public interest in the information in question being obtained by the Inquiry, having regard to its likely importance.

35. A person is guilty of an offence under section 35 of the Act for failure without reasonable excuse to comply with a notice issued pursuant to section 21. The offence is punishable on summary conviction by fine or imprisonment. Certification may also be given to the High Court pursuant to section 36 of the Act for enforcement proceedings, which may also result in imprisonment.

Privacy Policy

36. 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.

ANNEX: Format of witness statements

If any person has difficulty in meeting the requirements of this Annex, for whatever reason including accessibility needs, they should contact the Inquiry Team as soon as possible. The Inquiry Team will try to provide assistance and support. Contact details are listed on the Inquiry website (see [Contact us](#)).

1. The statement, whether in draft or final form, should be provided electronically where possible, designed to be printed on single-sided A4 paper, in Montserrat font, size 12, double line spaced, with margins, headers and footers of not less than 2.54cm (normally the default margin settings for Microsoft Word), in accordance with the template appended to this Annex.
2. Paragraphs should be numbered sequentially. The statement should be paginated at the centre of the page footer in the form 'Page x of y'. Plain English should be used wherever possible. Statements should not be presented in a 'question and answer form'. Sub-headings can be included if that assists. Statements should usually provide a chronological narrative account addressing the questions in the Rule 9 Request but should not reproduce the questions posed in the Rule 9 Request. It should not be assumed that the reader has a detailed knowledge of counterintelligence or police practice or policies, for example. Acronyms should be spelt out where they appear, and organisational names and references should be explained.
3. Statements should always be provided to the Inquiry in Word format to enable the text of the content to be searched. They should not be watermarked. Draft statements should be provided to the Inquiry by email to the Solicitor to the Inquiry, unless specified otherwise in the Rule 9 Request. Two copies of the final form statement should be provided to the Inquiry: one signed and one unsigned. The signed copy may be provided as an electronic scan. The Inquiry suggests that witnesses or their legal representatives should retain the hard copy of the statement bearing the original signature. In the absence of instructions to the contrary, final form statements should be uploaded to the Inquiry's document sharing platform (the Inquiry Team will provide further details in this regard at the appropriate time).

4. Statements should be headed “[NUMBER e.g. ‘First’] Witness Statement of [WITNESS NAME]”. The statement must show the full name of the witness and the date on which the statement is signed on the front page. The statement should begin by setting out the date of the Rule 9 Request to which it responds and briefly summarising the topic which the statement covers.
5. The Inquiry will allocate each witness a unique identifier which will be provided in any Rule 9 Request issued by the Inquiry. This unique identifier will be in the form “WITNXXXX”. The statement should include a ‘Statement No.’, which is this unique reference number followed by the number of the statement, on the front page, as demonstrated in the Appendix. The number of the statement will be ‘0100’ for first witness statements, ‘0200’ for second witness statements, and so on, so the ‘Statement No.’ for a witness’s first statement will be ‘WITNXXXX0100’.
6. In the case of a witness who is giving evidence in relation to their current or former occupational capacity, the statement should indicate the name of the employing organisation, and the witness’s current or former position or role within that organisation. A witness who is giving evidence in a private capacity need not include their home address in the body of the written statement, provided that such address has previously been notified in writing to the Inquiry.
7. The statement should end with a Statement of Truth containing the words *“I believe the content of this statement to be true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a Document verified by a statement of truth without an honest belief of its truth”* followed (in the signed copy) by the signature of the witness and the date of signature.

Documents accompanying the witness statement

8. Where a statement refers to any Document(s), the following requirements should be met in respect of each Document:
 - a. If the Document has not previously been disclosed to the Inquiry, the complete Document must be provided as soon as possible, and exhibited to the statement. All Documents should be exhibited as opposed to hyperlinked, including publicly available Documents such as

information from the internet. These Documents should be provided to the Inquiry by means of upload to the Inquiry's Document sharing platform (about which more information will be provided nearer the date the draft statement is due). A witness statement will be given a Unique Reference Number ("URN") that corresponds to the Statement No., as set out at paragraph 5, above (e.g. the first statement's URN will be WITNXXXX0100, the second statement's URN will be WITNXXXX0200, etc.). Documents provided by a witness will be given a URN that corresponds to their unique witness identifier and the statement (e.g. "WITNXXXX0101" would be given to the first Document produced by a witness to the Inquiry);

- b. If the Document has been previously disclosed to the Inquiry, the Inquiry's URN assigned to the Document by the Inquiry should be included in the body of the statement and in the index (see (d), below);
- c. The full title of the Document should be given on the first occasion reference is made to it. After that first reference, an abbreviation will be sufficient. This should be followed by the URN of the Document in brackets, for example, "(POL00000001 or WITNXXXX0101)". As set out above, the Inquiry's URN for that Document should also be included in the index to the witness statement (see (e), below), where the URN is known at the time the draft statement is returned (otherwise, that column should be left blank). Please only include each URN once in the index, when it is first referenced in the body of the statement; and
- d. Each statement should be accompanied by an index of the Documents referred to in the statement, identifying the Documents by URN, full Document description and the provider's control number (if applicable), as demonstrated in the Appendix. Documents referred to by a witness should be listed in the index in the order in which they appear in the statement. If any of this information is not yet available when the draft statement is returned, the column should simply be left blank. The Inquiry Legal Team will liaise with witnesses in this regard.

9. Where a witness makes a second or further supplementary written statement that fact should be stated at the outset in the heading (e.g., SECOND/THIRD/FOURTH WITNESS STATEMENT OF...). The numbering of second or further supplementary statements and their exhibits should be sequential, for example, if the URN of the final exhibit to the first statement was WITNXXXX004, then the URN of the second statement will be WITNXXXX005, and the first exhibit to the second statement will be WITNXXXX006, and so on.
10. Any questions relating to the content or format of a witness statement should be directed to the Inquiry Legal Team member named in the Rule 9 Request or, otherwise, to the Solicitor to the Inquiry by email: solicitors@finucane.independent-inquiry.uk.

Appendix: Template for written statements

Witness name:

Statement No.: WITNXXXX0100

Dated: [DD] [MONTH] [YYYY]

PATRICK FINUCANE INQUIRY

[DRAFT] FIRST WITNESS STATEMENT OF [WITNESS NAME]

I, [WITNESS NAME], will say as follows...

INTRODUCTION

1. I am a [current / former / retired] [PROFESSION NAME]...
2. This witness statement is made to assist the Patrick Finucane Inquiry (the Inquiry) with the matters set out in the Rule 9 Request dated [DD] [MONTH] [YYYY] (the Request).

BACKGROUND

3. I have been asked to set out x, y and z.
4. In respect of x, I can confirm...
5. In respect of y, I can confirm...
6. [etc.]

Statement of truth

I believe the content of this statement to be true. I understand that proceedings may be brought against anyone who makes, or causes to be

made, a false statement in a Document verified by a statement of truth
without an honest belief of its truth.

Signed:

Dated: