

PUBLIC INQUIRY INTO THE DEATH OF JERMAINE BAKER

PROTOCOL ON THE QUESTIONING OF WITNESSES

PURSUANT TO RULE 10 OF THE INQUIRY RULES 2006

1. Rule 10 of the Inquiry Rules 2006 states:

10.— (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—

(a) 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

(b) 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—

(a) the issues in respect of which a witness is to be questioned; and

(b) whether the questioning will raise new issues or, if not, why the questioning should be permitted.

2. In accordance with Rule 10(1) it is anticipated that the questioning of witnesses will be conducted primarily by the Chairman and Counsel to the Inquiry.

Evidence Proposal

3. The Inquiry legal team will prepare and circulate an evidence proposal for each witness. These will be prepared and circulated to core participants, and the witness' legal representatives on a rolling basis and at least **10 working days** before any witness is called to give evidence.
4. The evidence proposal will include:
 - a. The broad topics that it is proposed to cover with that witness;
 - b. The key documents that witnesses may be asked to consider or comment upon during their evidence.
5. Whilst the evidence proposal may not list every document to which the witness may be referred, it is important that witnesses are provided with advance notice of any documents in which they are criticised or which may be relied upon for potential criticism during their oral evidence.
6. The evidence proposal will not list every question which will be put to a witness.
7. **6 working days** before a witness' evidence commences core participants and witnesses' legal representatives are asked to respond with their comments on the evidence proposal, including:
 - a. Any additional key topics or issues which should be explored with the witness;
 - b. Any addition key documents which the witness should be asked to consider or comment upon.
8. Upon consideration of the responses received, the Inquiry Legal Team will circulate a finalised evidence proposal **4 working days** before the witness' evidence will commence. The finalised evidence proposals will be shared with witnesses and their legal representatives before they give evidence. It is, therefore, important that all core participants engage with this process and ensure that they meet these deadlines.

Rule 10 applications

9. Any application under rule 10 by a core participant or the witness' legal representative to ask questions of a witness must be submitted to the Solicitor to the Inquiry **2 working days** before a witness' evidence will commence.
10. Rule 10 applications must be made on the attached template and must specify:
 - a. The issues in respect of which permission is sought to question the witness (rule 10(5)(a));
 - b. Whether the questioning will raise new issues or if not why the questioning should be permitted (rule 10(5)(b));

- c. Any documents not listed in the evidence proposal to which the witness may be referred during the hearing. This is essential to ensure that an electronic copy of that document is available and that any issues with the sensitivity of the document are identified in advance.

11. At the conclusion of the evidence of a witness, there will be short break to permit core participants to apply for permission to ask questions of the witness about any topic or issue which has arisen unexpectedly during the course of the witness' evidence. The request can be raised in the first instance with Counsel to the Inquiry who may agree without the need to refer the matter to me. If no such agreement is reached, the request must be made to me and I will determine it.

12. All core participants are reminded that there is limited hearing time available. The questioning of witnesses, by all parties, must be focused upon eliciting the evidence that the Chairman requires in order to satisfy the terms of reference. Any application must comply with rule 10(5)(b), the Chairman is unlikely to be assisted by revisiting points already made during questioning by Counsel to the Inquiry.

Inquiry Legal Team

Jermaine Baker Inquiry

26 March 2021

Rule 10 Request

CP/RLR:

Date of request:

Date of witness(es)' evidence:

Witness name	Issues to be explored	New issue? (Y/N)	Reason why questioning is appropriate and justified	New documents (inc URN)