

PUBLIC INQUIRY INTO THE DEATH OF JERMAINE BAKER

- Protocol on Applications for Restriction Orders -

Introduction

1. It is important that the Inquiry's proceedings are conducted in public and in as open and transparent manner as is possible. The Inquiry will therefore as a general rule distribute all relevant witness statements and other relevant material to core participants and those referred to in the Inquiry's public hearings or otherwise put in evidence will be published on the Inquiry's website.
2. Should an individual or organisation seek to prevent disclosure or publication of information, they may apply to the Chairman for a restriction order preventing such disclosure or publication in accordance with section 19 of the Inquiries Act 2005. This protocol sets out the process that should be followed in doing so.

Application process

3. Applications for a restriction order should be made in writing to the Solicitors to the Inquiry.
4. Any such application should include:
 - a) An open section that identifies the restriction sought and provides as much detail about the application and the grounds on which it is made as is possible without defeating the purpose of the application;
 - b) A closed section that provides all remaining information about the application and grounds on which it is made. (Information set out in the closed section will amount to 'potentially restricted evidence' within the meaning of Rule 12(1) of the Inquiry Rules 2006); and
 - c) Supporting evidence, which if necessary may also be provided in open and closed form.
5. Upon receipt of an application, the Inquiry will follow the general process set out below:
 - a) The Inquiry's 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 Chairman will be asked to decide.
 - b) The open sections of the application and any evidence in support will be served on core participants and on representatives of the media subject to confidentiality undertakings. They may also be published on the Inquiry's website. The Chairman may issue a 'minded to' decision when circulating the application.

- c) The closed sections of the application and any evidence in support may be served on core participants and on representatives of the media subject to confidentiality undertakings. The Inquiry legal team will consult with the applicant as to whether disclosure should be permitted. The Chairman will decide whether and on whom to serve this material in the light of all the circumstances, including any representations made by the property applicant, the sensitivity of the material, the importance of the material to the issues in the application and any representations that he has received. 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 Chairman will invite core participants and representatives of the media to file written submissions in response to the application (and 'minded to' decision if applicable). These submissions may be published on the Inquiry's website.
 - e) The Chairman may thereafter:
 - i. invite Counsel to the Inquiry to file written submissions in response to the application (and 'minded to' decision if applicable); and/or
 - ii. 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.
 - f) The Chairman 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.
6. The Chairman may vary the procedure set out above as appropriate.
7. If a person applying for a restriction order wishes the application to be determined by a procedure other than that set out above, written representations to that effect should be included with the application.