

Scottish COVID-19 Inquiry

Statement of Intent: Redactions

1. Introduction

- 1.1. Section 18 of the Inquiries Act 2005 (the "2005 Act") imposes an obligation on the Scottish COVID-19 Inquiry ("the Inquiry") to take such steps as the Chair considers reasonable to allow members of the public to obtain or to view a record of evidence and documents given, produced or provided to the Inquiry. In line with this obligation, the Inquiry aims to be as transparent as possible. Part of this duty means that the Inquiry must ensure that the evidence it considers whether documentary or oral, is made available to members of the public, core participants, and media representatives in as complete and unedited a form as possible.
- 1.2. This Statement of Intent sets out the limited circumstances in which the Inquiry may restrict the information it makes available to members of the public, core participants, and media representatives by applying redactions. The information outlined below is not intended to cover every eventuality or every issue that may arise. Neither is this Statement of Intent intended to give any undertakings on the part of the Inquiry. It follows that, where required, the Inquiry may depart from this Statement of Intent.
- 1.3. This Statement of Intent should be read in conjunction with the Inquiry's Privacy Policy, the Protocol for Receipt and Handling of Information and the Inquiry's protocol on Restriction Orders which are all available on the Inquiry's website.

2. Definitions

- 2.1. 'Redaction' means obscuring text, parts of text or images in a document. Redactions are applied by blanking out, covering, or otherwise obscuring or rendering inaudible parts of images, audio recordings and parts of audio recordings from a document. This means that persons outside the Inquiry team can have access to redacted documents but will not be able to read certain text, see certain images or hear certain audio contained within. Redactions may be applied to witness statements, transcripts of hearings, and documentary evidence (which will be published on the Inquiry website and circulated amongst core participants as part of bundles for hearings). Redactions will be embedded into the disclosed document in such a way to ensure that it is not technically possible to see the redacted content.
- 2.2. In this statement of intent, any reference to 'document(s)' means anything in which information of any description is recorded, including witness statements, whether in paper or electronic form.

3. Information the Inquiry may redact (either of its own volition or by way of an application)

Applications to the Inquiry to redact documents

- 3.1. Any individual or organisation who has supplied evidence to the Inquiry in the form of a document can apply to the Chair for redactions to be applied as part of an application for a Restriction Order. Whether or not such an application is ultimately granted is a matter for the Chair.
- 3.2. Should an application for a Restriction Order requiring redaction be granted, the relevant information will be redacted from documents.
- 3.3. The onus is on the individual or organisation providing documentation to the Inquiry to consider whether they wish any part of the documentation to be redacted and, accordingly, whether they should make an application for a Restriction Order. **Parties should not assume that any documentation they have supplied will be redacted by the Inquiry simply on the basis that it falls within the scope of paragraphs 3.4 – 3.11 of this Statement of Intent.**

When the Inquiry deems redaction appropriate

- 3.4. Notwithstanding paragraph 3.3 above, in some circumstances, the Inquiry will redact documents even when no application for a Restriction Order has been made by an individual or organisation. This decision may be taken for a variety of reasons, including, but not limited to:
 - 3.4.1. **Data Protection:** The Inquiry is registered as a Data Controller with the Information Commissioner's Office. The Inquiry is subject to obligations, set out in the UK GDPR and Data Protection Act 2018, in respect of the personal data of living individuals (known as Data Subjects). If disclosure of information would contravene the principles of the UK GDPR and Data Protection Act 2018, the Inquiry will redact it.
 - 3.4.1.1. **Relevancy:** The scope of the work undertaken by the Inquiry is set out in its Terms of Reference.¹ In the event where any information referred to in documentary evidence is irrelevant to the Inquiry's Terms of Reference and/or, to the knowledge of the Inquiry, likely to be damaging to an individual(s) if released

¹ [The Inquiry's Terms of Reference](#)

then the Inquiry may redact any such information. This is explained further at paragraph 3.8 below.

3.4.1.2. **Risk of harm:** Should any documentation appear to the Inquiry that the release of any information contained therein would be likely to cause substantial harm to a person and would not be in the public interest then the Inquiry may choose to redact any such information. Such harm may include, but is not limited to, physical or emotional harm, or psychological distress.

3.5. The Inquiry will consider whether the release of the information that may be redacted is in the public interest, relevant to the Inquiry's Terms of Reference as well as lawful and reasonable under and in terms of Section 19 of the 2005 Act, the UK GDPR, and the Data Protection Act 2018. The Inquiry will also consider whether the application of redactions is proportionate and reasonable.

Personal Data

3.6. Notwithstanding paragraph 3.4 above, the Inquiry will not itself routinely redact any Personal Data or Sensitive Personal Data except where reference to the following is made:

3.6.1. Information which identifies persons under the age of 16 years. The Inquiry has adopted this approach on the basis that such persons are potentially less aware of the consequences and long-term implications of being named and identified publicly in the context of the Inquiry's investigations together with their inability to make an application for a Restriction Order on their own behalf.

3.6.2. Residential addresses.

3.6.3. Dates of Birth. If documentation contains references to a specific age of a person, then this may remain unredacted to provide relevant context to the documentation in question.

3.6.4. Personal contact details, including telephone numbers and email addresses unless they have significance for the Inquiry's investigation.

3.6.5. Copy signatures.

3.6.6. Identifiable personal medical information or other information (not relevant to core participants or witnesses) that may be considered as sensitive.

3.6.7. Unsubstantiated or unfounded accusations of criminal conduct.

- 3.7. Any applications for a Restriction Order on the basis that the information sought to be redacted is information that does not fall into one of the above categories will require to be presented to the Inquiry together with a full explanation as to the reasons why redaction is sought.

Risk of harm

- 3.8. In some situations where the risk of harm, including physical, emotional or psychological harm to an individual (either the individual providing the documentation to the Inquiry or third-party individual named within the documentation) would outweigh the public interest in the disclosure of the documentation then the Inquiry, where it deems it appropriate, will apply redactions to the relevant information.
- 3.9. In the absence of a Restriction Order application, identifying any risk of harm without any prior knowledge would be difficult for the Inquiry. The Inquiry does acknowledge that, in some cases, there may be preexisting public information which would explain the nature of the risk of harm, however, the Inquiry strongly encourages any individual or organisation at a risk of harm to apply for redaction.
- 3.10. The risk of harm is not limited to the risk of physical, emotional or psychological harm and the Inquiry will consider applications for redactions which would, if granted, protect other interests which may be harmed by the disclosure of information.
- 3.11. In all cases, where the Chair is satisfied that the disclosure of certain information would pose a risk of harm, he will balance the risk and effect of any harm with the general duty contained in section 18 of the 2005 Act regarding securing public access to inquiry proceedings and information.

4. Procedure for applying for a Restriction Order

In all cases, persons who seek anonymity or who are applying to have restrictions imposed on disclosure of publications of information given, produced or provided to the Inquiry, under sections 19 and 20 of the 2005 Act, should follow the procedure set out in the Inquiries Protocol on Applications for Restriction Orders.

5. Further information

If you have any questions about any of the information contained within this document, or any other matter related to the provision of information to the Inquiry, please contact the Solicitor to the Inquiry at contact@covid19inquiry.scot.