

FORMAL WRITTEN COMMENT PROTOCOL

1. Each witness statement received will be scrutinised by one of the Legal Team to the Inquiry within a target time of two working days of receipt.
2. If that scrutiny reveals that the witness statement contains material (eg defamatory or scandalous matter) which cannot reasonably assist the Inquiry in its task, that material will be redacted prior to publication of the statement to any person outside the Inquiry Secretariat or Legal Team.
3. If the scrutiny reveals matters of fact or opinion which are critical of any other person or body in a regard which the scrutineer considers relates to the issues before the Inquiry and which the scrutineer considers to be of more than minimal importance then:
 - a. the witness statement will be sent for comment to the person or body criticised, providing that person or a duly authorised officer of the body (as the case may be) undertakes to keep confidential the text and substance of the statement at all times prior to its general publication by the Inquiry;
 - b. the person or body criticised will be invited to respond to the criticism(s) contained in the statement. This may be either by reference to one or more specific criticisms or, more generally, to the statement as a whole.
1. Where the witness statement is that of a person whom the Inquiry has decided should give oral evidence, that fact will be indicated to the person criticised at the time the witness statement is sent to her or him.

The fact that no indication is given is, however, no guarantee that the author of the original formal written statement will not be called to give oral evidence.
2. Where a witness who has made a formal written statement is to be called to give oral evidence then:
 - a. any written comment which seeks to endorse, rebut or explain any criticism in, or to comment on, the statement must be received by the Inquiry at least 7 days prior to the start of that evidence if it is to be made public contemporaneously with the statement itself;
 - b. where time does not permit 7 clear days, then the person commenting may telephone, fax or e'mail the Solicitor to the Inquiry to give reasons why, notwithstanding the shortage of time, it is nonetheless important that contemporaneous publication should occur. Provided good reasons are given for it the Inquiry will then do what it reasonably can to ensure contemporaneous publication does take place.
1. Every comment received in writing will be published with specific reference to the formal written statement to which it relates (subject to redaction as in paragraph 2. above). Except where paragraph 5(a) applies, the timing of publication will be at the discretion of the Inquiry although it is normally to be expected that comments will be published contemporaneously with the document(s) to which they relate.
2. Irrespective of whether or not a statement has been submitted to them for comments, where a person or body regards any part of it as critical in the sense described in paragraph 3., they may send written comment to the Inquiry, and it will be published, unless the Legal Team consider it insufficiently relevant.
3. Any written comment must clearly indicate that it is intended as such if it is to be published and considered by the Inquiry Panel.
4. Oral comments made other than when giving evidence and comment not clearly identified as such will not be published and will not be considered by the Inquiry Panel.

5. Upon receipt of any written comment a member of the Legal Team will consider whether any further detail is required in relation to that comment, and may contact the commentator with a view to asking for her/him to provide it.