

NOTE FOR CORE PARTICIPANTS ON THE PROVISIONAL WITNESS LIST AND THE PROCESS TO APPLY FOR SPECIAL MEASURES

Directions

1. The Inquiry Legal Team will circulate to all Core Participants by **12pm on Friday 14th June** a provisional list of the witnesses it is intended to call with, as far as possible, an INQ reference for the statement(s) of each proposed call witness.
2. Submissions on the provisional witness list shall be provided by Core Participants to the Solicitor to the Inquiry by **12pm on 28th June 2024**. The submissions must be limited to identifying:
 - a. any additional witness it is suggested should be called to give evidence; or
 - b. any witness who should be removed from the witness list.
3. The submissions must provide reasons in support of each request made on points (2)(a) to (c) above.
4. A revised witness list shall be circulated to all Core Participants by the Inquiry Legal Team by **10am on 8th July 2024**.
5. Any written application for special measures from a vulnerable witness whose name is on the list of witnesses to be called shall be submitted to the Solicitor to the Inquiry by no later than **4pm on 19th July 2024**. The form of the application and any supporting material shall be provided as per paragraphs 13 to 17 of this note.
6. The applications will be decided by the Chair on the papers as soon as possible. The aim is to provide rulings by **29th July 2024**.
7. Where the Chair determines that an oral hearing is necessary, it will take place on **6th August 2024**.

Vulnerable Witness and Special Measures

8. A vulnerable witness is defined in paragraph 2 of the Vulnerable Witness Protocol as a witness who may require support and assistance to be understood or to give evidence, and the need for their evidence to be taken in a manner which reduces risk of harm to them.
9. Vulnerability may include a recognised mental or physical disability or disorder; a learning difficulty or language impairment; or any issue or condition which affects the ability of the individual to participate as a witness to the Inquiry.
10. A person shall be considered a vulnerable witness if, by reason of their experiences, and/or personal characteristics:
 - a. they may require additional support or measures to ensure their effective participation at any oral hearing; and/or
 - b. there is a risk that giving evidence may adversely affect their mental health.
11. Special Measures are explained in paragraph 7 of the Vulnerable Witness Protocol as measures that are put in place to assist a witness to give evidence and to improve the quality of their evidence.
12. A non-exhaustive list of Special Measures includes:

- a. the appointment of an intermediary: the Inquiry may appoint an intermediary to assess (and report upon) the additional needs of any witness and to assist when giving evidence;
- b. the appointment of an interpreter;
- c. the giving of evidence via a live link from a location other than the Inquiry venue;
- d. screens to shield the witness from view;
- e. no broadcast of their evidence by the media;
- f. the support of a friend, relative or other appropriate adult (sitting with the witness as he or she gives evidence). Any such person shall play no part in the witness giving evidence unless directed to do so by the Chair;
- g. regular breaks at prescribed times.

Form of Applications for Special Measures

13. Any request for Special Measures must set out, in as much detail as possible, the following:
 - a. the reasons that an individual is said to be a vulnerable witness; and
 - b. the special measures that are sought to address the vulnerability.
14. Any application must be prepared on the basis that it is capable of being disclosed to Core Participants and, if necessary, accredited members of the media and their legal representatives. Any application that is provided to Core Participants and/or members of the media will be provided on the basis of an obligation of confidentiality and that none of the information will be placed into the public domain.
15. If necessary, a separate application can be made to the Chair with any additional information in support of the Special Measures that it is said is relevant but due to the nature of the information provided should not be disclosed to Core Participants and/or accredited members of the media. As far as possible, the content of any such application will be summarised for Core Participants and / or the media.
16. Where an application is based on a medical reason it must be supported by a medical report from an appropriately qualified medical professional. As a minimum, the report should set out:
 - a. The nature of the medical condition.
 - b. How it impacts on the ability of the witness to give oral evidence.
 - c. How long the witness has had the medical condition and how long it is likely to last.
 - d. What steps can be taken to accommodate the condition that will help the witness to give oral evidence.
 - e. Any other relevant information.
17. The medical report, or a redacted version of it, should be capable of being disclosed to Core Participants and the accredited media.
18. For the avoidance of doubt, as per paragraph 4 of the Vulnerable Witness Protocol, the parents of the babies on the indictment who wish to give evidence will be entitled to special measures and further individual support to assist them. The support offered will be a matter of ongoing discussion between the Inquiry and legal teams for the parents. The Chair does not require any supporting medical or other evidence from the parents.

19. The clinicians subject to the Crown Court Orders will be entitled to give evidence in a way that ensures adherence to those Orders so that no information is published that tends to identify them as a person concerned in the criminal proceedings. This is however a separate consideration from the process set out above. Any clinician subject to the Crown Court Orders who is said to be a vulnerable witness is still required to make an application for Special Measures.
20. **It is important that all Core Participants and the witnesses they are supporting take steps now to liaise with each witness who has received a Rule 9 request from the Inquiry and identify any concerns they may have if they were called to give evidence that would require an application for Special Measures. No Core Participant should wait for the provisional list of witnesses before progressing steps to obtain medical and other evidence to support an application for Special Measures that may be required.**

**Inquiry Legal Team
24 May 2024**