

The Independent Jersey Care Inquiry (the “Inquiry”)

Inquiry Protocol: Providing Evidence to the Inquiry

Scope

1. This protocol is designed to assist the Inquiry in obtaining information necessary for its work. The protocol sets out how the Inquiry will request information relevant to its Terms of Reference.
2. The Inquiry anticipates that documentation will be provided voluntarily. The Inquiry has the power to order an individual or an organisation to provide evidence in the form of documents and/or a witness statement, such rights being set out in the States of Jersey (Powers, Privileges and Immunities) (Committees of Inquiry) (Jersey) Regulations 2007. Failure to comply with such an order constitutes an offence. The Inquiry anticipates that documents and witness statements will be provided without the Inquiry needing to use such powers.
3. A document will be considered to be a ‘relevant document’ if the Inquiry would, if aware of its existence, wish to be provided with it, given the Inquiry’s Terms of Reference.

Documents

Requests for documents

4. The Inquiry may request that a person (which includes an individual, organisation, institution or body) disclose relevant documents to it.
5. Any other person, institution, organisation or body who believes they may have relevant documents should contact the Solicitors to the Inquiry as soon as possible.

Searches for documents

6. If someone receives a request for relevant documents, they will need to undertake a comprehensive and thorough search for such documents. The Solicitors to the Inquiry are available to answer questions about how to undertake such a search. A search for relevant documents should be carried out without delay.
7. The Inquiry will usually expect documents to be provided within 14 days of the date of a request.

Disclosure of documents

8. The procedures that the Inquiry will follow in obscuring information from documents, known as the 'redaction' process, are set out in the Inquiry Protocol: Data Protection, Freedom of Information and Redaction.
9. Documents disclosed to the Inquiry should be provided with provisional redactions applied to the document using yellow highlighting, unless otherwise directed by the Inquiry.
10. Where the person providing the documents believes that some or all of the information requested may be subject to legal professional privilege ("LPP") they may withhold it, or redact in full (i.e. black out the information) some, or all, of the information before sending it to the Inquiry. Written reasons should be provided to explain why the material is considered to attract LPP. The provision of documents should not be delayed on the grounds that some or all of this information may be subject to LPP. The procedure is explained further in the Inquiry Protocol: Data Protection, Freedom of Information and Redaction.
11. The Inquiry may agree to receive information on the basis of strict confidentiality for the sole purpose of reviewing the information for relevance. Where information is provided on such a basis, this does not prevent the person providing the documents from subsequently claiming LPP in respect of all or part of that information.
12. Original (unredacted) documents must be retained by the person, institution, organisation or body providing the documents. If the Inquiry wishes to inspect any original document(s), the holder of the document(s) will be contacted by the Solicitors to the Inquiry and asked to produce the document(s) at a time and place specified.
13. The Inquiry may draw adverse conclusions or inferences if it considers that documents have been, or may have been, without good reason, distorted, destroyed, intentionally suppressed, concealed or altered.
14. The Inquiry's preference is for documents to be sent electronically, either by email to its secure email system at info@jerseycareinquiry.org, or contained on a disc or memory stick and sent to: Independent Jersey Care Inquiry, PO Box 551, St Helier, Jersey, JE4 8XN, Channel Islands. Alternatively, documents can be sent in hard copy to the same address. Arrangements can also be made for personal delivery.

Witness statements

Requests for witness evidence

15. The Inquiry may ask a person (which includes an individual, organisation, institution or body) to provide evidence in the form of a written witness statement or invite them to be interviewed by the Solicitors to the Inquiry, who will then prepare a witness statement for them.
16. Any other person, institution, organisation or body who believes they may be able to give relevant witness evidence should contact the Solicitors to the Inquiry as soon as possible.
17. Generally, the Inquiry will rely on witness statements produced by the Solicitors to the Inquiry. However, in some cases, the Inquiry may rely on witness statements given in another proceedings or forums, such as police interviews. Where this is the case, the Solicitors to the Inquiry may write to the witness to ask for their consent for the statement to be used by the Inquiry. The witness will be asked to review the contents of that earlier statement and add to it or amend any inaccurate details by way of a covering statement. They may ask the Solicitors to the Inquiry for assistance with this process. In some cases, this may involve the witness attending a meeting with the Solicitors to the Inquiry. Once a final form of amendments/covering statement has been prepared, the Inquiry will follow the procedures set out below so that the witness can agree and sign a final form of that statement.
18. If the Solicitors to the Inquiry prepare a draft witness statement for a witness following interview, a copy of the draft witness statement will be sent to the witness who may add to, alter or amend the statement before approving its contents and signing the statement. The witness however will not be entitled to materially change fundamental elements of their account given to the Solicitors to the Inquiry at interview. The approved and signed statement shall be returned by the witness promptly. The statement will become evidence to the Inquiry.
19. In the event that a witness fails to return an approved and signed copy of their statement within five working days, or refuses to sign the statement without good reason, the Inquiry may release to Interested Parties and their Accredited Lawyers a copy of the unsigned and unapproved statement. The unsigned and unapproved statement will become evidence to the Inquiry.
20. Witness statements should be sent electronically to the secure email at info@jerseycareinquiry.org, or sent by post to the Independent Jersey Care Inquiry, PO Box 551, St Helier, Jersey, JE4 8XN, Channel Islands.

21. Any questions concerning the content or format of a witness statement, or any documents attached to the statement, should be raised with the Solicitors to the Inquiry, in writing, as soon as possible upon receipt of a request for a witness statement.

Witness expenses

22. Individual witnesses who are asked by the Inquiry to give evidence to it can seek reimbursement of their reasonable expenses in so doing. The Inquiry will assist in making arrangements in advance. The Inquiry will not reimburse expenses incurred where it is reasonable for another party to do so.