

Subsidiary Legislation made under s.33.

Inquiry Rules 2026

LN.2026/078

Commencement

17.4.2026

ARRANGEMENT OF RULES

Rule

1. Title.
2. Commencement.
3. Interpretation.
- 3A. Service by the Inquiry.
4. Service on the Inquiry.
5. Core participants.
6. Recognised legal representative.
7. This rule applies where there are two or more core participants, each of whom
8. Nothing in rules 6 or 7 prohibit a person referred to in rule 6(1) from appointing
9. Evidence.
10. Oral evidence.
11. Opening and closing statements.
12. Disclosure of potentially restricted evidence.
13. Warning letters.
14. Subject to paragraphs (2), (3), and (4) the contents of a warning letter
15. Subject to paragraphs (3) and (4), the warning letter must
16. In determining the weight to be accorded to any evidence, the inquiry panel must
17. Reports.
18. Records management.
19. Application for an award under section 32(1) of the Act.
20. Determination of whether an award should be made.
21. Determination conditions in respect of awards for amounts to be incurred in respect of legal representation.
22. Determination conditions in respect of awards for amounts to be incurred in respect of compensation for loss of time.
23. Determination conditions in respect of awards for other amounts to be incurred.
24. Notification or referral following determination of whether an award should be made.
25. Where the chairman has determined that an award should

2024-04

Inquiries

2026/078

Inquiry Rules 2026

26. Assessment of an award by the solicitor to the inquiry.
27. Criteria for assessing amount of initial assessment.
28. Procedure where initial assessment is not agreed in relation to an award for legal representation.
29. Procedure where initial assessment not agreed in relation to an award for sums other than for legal representation.
30. Review by costs assessor of the amount of an award for legal representation.
31. The costs assessor must send
32. Agreement prior to a review hearing.
33. Making an award.
34. Making Protocols.

SCHEDULE

In exercise of the powers conferred by section 33 of the Inquiries Act 2024 and of all other enabling powers, the Government has made the following Rules-

Title.

1. These Rules may be cited as the Inquiry Rules 2026.

Commencement.

2. These Rules come into operation on the day of publication.

Interpretation.

- 3.(1) In these Rules- the Act” means the Inquiries Act 2024;

“award” means an award under section 32(1) of the Act;

“core participant” means a person designated as such under rule 5;

“costs assessor” means the Registrar of the Supreme Court

“counsel to the inquiry” means the qualified lawyer or lawyers, if any, appointed by the Government in consultation with the chairman to act as counsel;

“designated email address” means the email address notified by a person to a member of the inquiry team, in writing, as the email address to be used for email communications;

“designated postal address” means—

(a) in the case of the inquiry, the address notified to witnesses (and their recognised legal representative, if any) by the secretary to the inquiry, in whatever manner he sees fit, as the address to which correspondence should be addressed; and

(b) in the case of any other person, the address notified by that person to a member of the inquiry team, in writing, as the address to be used for postal communications;

“inquiry” means an inquiry under section 3 of the Act which the Government causes to be held;

“inquiry record” means all documents given to or created by the inquiry;

“inquiry team” means—

- (a) the inquiry panel;
- (b) the counsel to the inquiry;
- (c) the secretary to the inquiry;
- (d) the solicitor to the inquiry;
- (e) assessors appointed under section 13 of the Act; and
- (f) any other person engaged (whether as an employee or under a contract for services) to provide administrative, legal or technical assistance to the inquiry or to assist in any investigations which the inquiry may conduct;

“qualified lawyer” means a solicitor or barrister in Gibraltar duly registered under Sections 6(3)(a), 6(3)(c) or 6(3)(i) of the Legal Services Act;

“recognised legal representative” means a person designated under rule 6 or rule 7;

“secretary to the inquiry” means a person appointed by the Government in consultation with the chairman to carry out (with the assistance of any deputies that may be appointed) the administration and management of the inquiry;

“solicitor to the inquiry” means the qualified lawyer appointed by the Government in consultation with the chairman to act as solicitor;

“warning letter” means a letter sent by the chairman to a person during the course of the inquiry which contains a statement to the effect that it is a warning letter; and

“witness” means any person to whom the inquiry panel has sent a written request for a written statement under rule 9(1).

Service by the Inquiry.

3A. Any requirement under these Rules that a document is given or sent to any person by a member of the inquiry team is satisfied by that document being—

- (a) delivered in person;
- (b) left at the person’s designated postal address;

- (c) sent to the person's designated postal address by post; or
- (d) sent by email.

Service on the Inquiry.

4. Any requirement under these Rules that a document is given or sent to the inquiry is satisfied by that document being—

- (a) left at the inquiry's designated postal address;
- (b) sent to the inquiry's designated postal address by post; or
- (c) sent by email.

Core participants.

5.(1) The chairman may designate a person as a core participant at any time during the course of the inquiry, provided that person consents to being so designated.

(2) In deciding whether to designate a person as a core participant, the chairman must in particular consider whether—

- (a) the person played, or may have played, a direct and significant role in relation to the matters to which the inquiry relates;
- (b) the person has a significant interest in an important aspect of the matters to which the inquiry relates; or
- (c) the person may be subject to explicit or significant criticism during the inquiry proceedings or in the report, or in any interim report.

(3) A person ceases to be a core participant on—

- (a) the date specified by the chairman in writing; or
- (b) the end of the inquiry.

Recognised legal representative.

6.(1) Where—

- (a) a core participant, other than a core participant referred to in rule 7; or
- (b) any other person required or permitted to give evidence or produce documents during the course of the inquiry,

has appointed a qualified lawyer to act on that person's behalf, the chairman must designate that lawyer as that person's recognised legal representative in respect of the inquiry proceedings.

7.(1) This rule applies where there are two or more core participants, each of whom seeks to be legally represented, and the chairman considers that—

- (a) their interests in the outcome of the inquiry are similar;
- (b) the facts they are likely to rely on in the course of the inquiry are similar; and
- (c) it is fair and proper for them to be jointly represented.

(2) The chairman must direct that those core participants shall be represented by a single recognised legal representative, and the chairman may designate a qualified lawyer for that purpose.

(3) Subject to paragraph (4), any designation must be agreed by the core participants in question.

(4) If no agreement on a designation is forthcoming within a reasonable period, the chairman may designate an appropriate lawyer who, in his opinion, has sufficient knowledge and experience to act in this capacity.

8. Nothing in rules 6 or 7 prohibit a person referred to in rule 6(1) from appointing a legal team to assist his recognised legal representative in the discharge of the recognised legal representative's functions.

Evidence.

9.(1) The inquiry panel must send a written request for a written statement to any person from whom the inquiry panel proposes to take evidence.

(2) The inquiry panel must send a written request to any person that it wishes to produce any document or any other thing.

(3) The inquiry panel may make a written request for further evidence, being either a written statement or oral evidence.

(4) Any request for a written statement must include a description of the matters or issues to be covered in the statement.

Oral evidence.

10.(1) Subject to paragraphs (2) to (7), where a witness is giving oral evidence at an inquiry hearing, only counsel to the inquiry (or, if counsel has not been appointed, the solicitor to the inquiry) and the inquiry panel may ask questions of that witness.

(2) Where a witness, whether a core participant or otherwise, has been questioned orally in the course of an inquiry hearing pursuant to paragraph (1), the recognised legal representative of that witness may ask the witness questions and he shall be the last to do so of all the recognised legal representatives who do so.

(3) Where a witness, whether a core participant or otherwise, has been questioned orally in the course of an inquiry hearing and during the course of that oral questioning or in any written witness statement has given evidence which is adverse to the interests, position or reputation of a core participant or which otherwise directly relates to the evidence of a core participant, the recognised legal representative of that core participant may ask that witness questions.

(4) Where—

- (a) a witness other than a core participant has been questioned orally in the course of an inquiry hearing by counsel to the inquiry, or by the inquiry panel; and
- (b) that witness's evidence directly relates to the evidence of another witness,

the recognised legal representative of the witness to whom the evidence relates may apply to the chairman for permission to question the witness who has given oral evidence.

(5) The recognised legal representative of a core participant may apply to the chairman for permission to ask questions of a witness giving oral evidence in circumstances other than those specified in this rule.

(6) When making an application under paragraphs (5), the recognised legal representative must state—

- (a) the issues in respect of which a witness is to be questioned; and
- (b) whether the questioning will raise new issues or, if not, why the questioning should be permitted.

(7) The asking of questions of any witness shall be conducted in accordance with any directions, including as to time limit, given by the Chairman.

Opening and closing statements.

11.(1) The recognised legal representative of a core participant may—

- (a) make an opening statement to the inquiry panel at the commencement of the first of any oral hearings, and
- (b) make a closing statement to the inquiry panel.

(2) A core participant who does not have a recognised legal representative may make the opening and closing statements referred to in paragraph (1).

Disclosure of potentially restricted evidence.

12.(1) In this rule—

- (a) “potentially restricted evidence” means any evidence which is in the possession of the inquiry panel, or any member of the inquiry panel, and which is the subject of a relevant application which has not been determined or withdrawn;
- (b) “relevant application” means an application which is
 - (i) made by any person that evidence or documents are the subject of a restriction notice made by the Government pursuant to section 19(2)(a) of the Act;
 - (ii) made by any person that the chairman exercise his discretion under section 19(2)(b) of the Act; or
 - (iii) made by any person that evidence or documents be withheld on grounds of public interest immunity,

and which entails the withholding of evidence from the public.

(2) Subject to paragraph (3), potentially restricted evidence is subject to the same restrictions as it would be subject to if the order sought in the relevant application had been made.

(3) Where the conditions in paragraph (4) are satisfied, the chairman may disclose the potentially restricted evidence to a person who would not otherwise be permitted to see it.

(4) The conditions are that—

- (a) the chairman considers that disclosure to an individual is necessary for the determination of the application; and
- (b) the chairman has afforded the opportunity to—
 - (i) the person providing or producing the evidence to the inquiry panel; or
 - (ii) any other person making the relevant application,

to make representations regarding whether disclosure to that individual should be permitted.

(5) Any person who is shown potentially restricted evidence pursuant to paragraph (3) shall owe an obligation of confidence to the person who provided or produced the evidence to the inquiry and to the Inquiry Panel.

(6) A breach of the obligation referred to in paragraph (5) is actionable at the suit of the person to whom the obligation is owed, and the Inquiry Panel, subject to the defences applying to actions for breach of confidence.

Warning letters.

13.(1) The chairman may send a warning letter to any person—

- (a) he considers may be, or who has been, subject to criticism in the inquiry proceedings; or
- (b) about whom criticism may be inferred from evidence that has been given during the inquiry proceedings; or
- (c) who may be subject to criticism in the report, or any interim report.

(2) The recipient of a warning letter may disclose it to his recognised legal representative.

(3) The inquiry panel must not include any explicit or significant criticism of a person in the report, or in any interim report, unless—

- (a) the chairman has sent that person a warning letter; and
- (b) the person has been given a reasonable opportunity to respond to the warning letter.

14.(1) Subject to paragraphs (2), (3), and (4) the contents of a warning letter are to be treated as subject to an obligation of confidence owed—

- (a) separately by each member of the inquiry team to the recipient of the warning letter;
- (b) by the recipient to the chairman; and
- (c) by the recipient's recognised legal representative to the chairman (where the recipient has disclosed the letter under rule 13(2)).

(2) The obligation of confidence may be waived in writing at any time by the chairman or, as the case may be, by the recipient of the warning letter.

(3) The inquiry panel's obligation of confidence arising under this rule ends when the inquiry report is signed in accordance with section 24(5) of the Act.

(4) All other obligations of confidence arising under this rule end when the inquiry report is published.

(5) A breach of the obligation referred to in paragraph (1) is actionable at the suit of the person to whom the obligation is owed, subject to the defences applying to actions for breach of confidence.

15.(1) Subject to paragraphs (3) and (4), the warning letter must—

- (a) state what the criticism or proposed criticism is;
- (b) contain a statement of the facts that the chairman considers substantiate the criticism or proposed criticism; and
- (c) refer to any evidence which supports those facts.

(2) The chairman may provide copies of the evidence referred to with the warning letter, if he considers it appropriate to do so.

(3) Where the warning letter is sent to a person under rule 13(1)(b)—

- (a) the requirements of paragraph (1) do not apply, but
- (b) subject to paragraph (4), the letter must refer to the evidence from which criticism could be inferred.

(4) Paragraphs (1) to (3) are subject to any restrictions on the disclosure of evidence, documents or information pursuant to sections 19 and 23 of the Act or resulting from a determination of public interest immunity.

16. In determining the weight to be accorded to any evidence, the inquiry panel must disregard the fact that a warning letter was, or was not, sent to any person before the determination is made.

Reports.

17.(1) A report shall be delivered only to the Government by means of its delivery to the Chief Minister (or to such other Minister as he may specify in writing to the Chairman) and to the Attorney General on behalf of the Government.

(2) Following delivery of the report (or any interim report) to the Government, but prior to publication, the Government (or the chairman if it is to be published by the chairman under section 25(2) of the Act) must give a copy of the version of the report which is to be published (“an advance copy”), to—

- (a) each core participant; and
- (b) to their recognised legal representative, if any.

(3) The contents of the report, and any interim report are to be treated, until the report, or interim report, has been published by the Government or the chairman (as the case may be), as subject to an obligation of confidence owed by each person, who pursuant to paragraph (1) has received a copy of the report, to the Government and to the chairman.

(4) The Government (or the chairman, if the report is to be published by the chairman under section 25(2) of the Act) may require that a written confidentiality and non-disclosure undertaking in terms required by the Government (or the chairman, as the case may be) is given to it and to the chairman by any person before an advance copy is given to that person under paragraph (2).

(5) A breach of the obligation referred to in paragraph (3) or of the undertaking referred to in paragraph (4) is actionable at the suit of the Government and/or the chairman, subject to the defences applying to actions for breach of confidence.

Records management.

18.(1) Subject to the legal rights of any person—

- (a) during the course of the inquiry, the chairman must have regard to the need to ensure that the record of the inquiry is comprehensive and well-ordered; and
- (b) at the end of the inquiry, the chairman must transfer custody of the inquiry record to a department of His Majesty's Government of Gibraltar or to the appropriate public record office, as the Government directs.

(2) In this rule, the "appropriate public records office" means the Gibraltar National Archives, the Registry of the Supreme Court or such other official depository as the Government may direct.

Application for an award under section 32(1) of the Act.

19.(1) A person may apply to the chairman at any time for an award to be made under section 32(1) of the Act (award of compensation and expenses by the chairman) in writing.

(2) Where the application relates to amounts to be incurred in respect of legal representation, the application must state—

- (a) the nature and estimated duration of the work for which the award is sought;
- (b) the proposed hourly rates; and
- (c) any other amounts which the person anticipates claiming in relation to legal representation.

Determination of whether an award should be made.

20.(1) Subject to section 32(4) of the Act (conditions or qualifications notified by the Government), the chairman must take into account the general criteria set out in paragraph (2) when determining whether an award should be made.

(2) The general criteria are—

- (a) the financial resources of the applicant; and
- (b) whether making an award is in the public interest.

Determination conditions in respect of awards for amounts to be incurred in respect of legal representation.

21. Where the chairman has determined an award for amounts to be incurred in respect of legal representation should be made, the determination of the application must set conditions, including but not limited to—

- (a) the nature and scope of the work to be funded;
- (b) the hourly rates which will be paid;
- (c) any upper limit or limits on the sums or number of hours which will be paid;
- (d) the frequency with which bills must be submitted to the chairman; and
- (e) the form in which bills must be submitted to the chairman.

Determination conditions in respect of awards for amounts to be incurred in respect of compensation for loss of time.

22. Where the chairman has determined an award for amounts to be incurred in respect of compensation for loss of time, the determination must set conditions, including but not limited to—

- (a) an upper limit or limits on the sums which will be paid;
- (b) the form in which bills must be submitted to the chairman; and
- (c) the supply of such documentary evidence as the chairman considers necessary.

Determination conditions in respect of awards for other amounts to be incurred.

23. Where the chairman has determined an award for amounts to be incurred other than under rules 21 or 22, the determination must set conditions, including but not limited to—

- (a) an upper limit or limits on the sums which will be paid;
- (b) a requirement that the applicant provide evidence that the expenditure has been incurred; and
- (c) the form in which bills must be submitted to the chairman.

Notification or referral following determination of whether an award should be made.

24. Where—

- (a) the chairman has determined that an award should be made; and
- (b) the application relates to amounts which are to be incurred,

the chairman must send the determination to the applicant and his legal representative, if he has one.

25. Where—

- (a) the chairman has determined that an award should be made; and
- (b) the application relates to amounts which have been incurred,

the chairman must refer the application to the solicitor to the inquiry for an assessment of the amount of the award as soon as practicable.

Assessment of an award by the solicitor to the inquiry.

26.(1) The solicitor to the inquiry must make an initial assessment of the award within twenty-one days of the referral by the chairman.

(2) Where the solicitor to the inquiry determines that the full amount applied for by the applicant should be paid, the initial assessment of the amount of the award is also the final assessment.

(3) If the applicant disagrees with the initial assessment of the amount of the award, or a part of it, he must notify the solicitor to the inquiry of this as soon as reasonably practicable, and in any event within twenty-one days of the date on which the initial assessment of the amount of the award is sent to the applicant.

(4) Where the applicant has not responded within twenty-one days of the date the initial assessment of the award being sent to the applicant, the solicitor to the inquiry must issue the final assessment.

(5) An initial or final assessment made by the solicitor to the inquiry must be in writing and sent to the applicant and his recognised legal representative, if he has one.

Criteria for assessing amount of initial assessment.

27.(1) When assessing the amount pursuant to an application in respect of compensation for loss of time, the solicitor to the inquiry must have regard to—

- (a) actual sums lost by the applicant as a result of attending the inquiry; or

- (b) if no such sums can be identified, such other amount as the solicitor to the inquiry considers proportionate and reasonable.
- (2) When assessing the amount to be awarded pursuant to an application in respect of expenses, the solicitor to the inquiry must have regard to all the circumstances and to whether the expenses—
- (a) were proportionately and reasonably incurred; and
 - (b) are proportionate and reasonable in amount.
- (3) The solicitor to the inquiry must exclude amounts from the initial assessment which do not comply with conditions notified pursuant to rules 21, 22 and 23, as appropriate.

Procedure where initial assessment is not agreed in relation to an award for legal representation.

28.(1) Where—

- (a) notification has been given under rule 26(3); and
- (b) the application relates to amounts incurred in respect of legal representation,

the solicitor to the inquiry must send the applicant, in writing, the points of dispute within twenty-one days of receipt of the notification.

- (2) The points of dispute referred to in paragraph (1) must—
- (a) identify each item to which the solicitor to the inquiry objects;
 - (b) state the nature of the objection for each item; and
 - (c) propose an amount to be allowed for each item in respect of which a reduction is sought.
- (3) The applicant must provide a written response to the points of dispute to the solicitor to the inquiry within twenty-one days of the points of dispute having been sent to the applicant.
- (4) The solicitor to the inquiry and the applicant may agree to extend the deadlines set out in paragraphs (1) and (3).

Procedure where initial assessment not agreed in relation to an award for sums other than for legal representation.

29.(1) Where—

- (a) notification has been given under rule 26(3); and
- (b) the application does not relate to amounts incurred in respect of legal representation,

the solicitor to the inquiry must reconsider the initial assessment of the amount of the award.

(2) Having reconsidered the initial assessment of the amount of the award pursuant to paragraph (1), the solicitor to the inquiry must issue the final assessment of the amount of the award to the applicant within a reasonable time.

Review by costs assessor of the amount of an award for legal representation.

30.(1) Where the applicant has provided a response in accordance with rule 28(3) and there remains a disagreement, the chairman must either—

- (a) engage the assistance of the costs assessor, refer the assessment to that costs assessor and supply all relevant evidence and documentation; or
- (b) require the solicitor to the inquiry to issue a final assessment of the amount of the award.

(2) Where the assessment of an award has been referred under paragraph (1)(a), the costs assessor must hold a review hearing within a reasonable time following referral.

(3) The costs assessor shall notify the solicitor to the inquiry and the applicant for the award of the date and location of the review hearing in writing as soon as practicable, and in any event not later than fourteen days before the date of the hearing.

(4) A person other than—

- (a) the applicant;
- (b) the solicitor to the inquiry; and
- (c) their qualified lawyers or costs draftsman,

may be heard at the review hearing only if the costs assessor gives permission for that person to be heard.

31. The costs assessor must send—

- (a) the applicant for the award; and
- (b) the chairman,

his assessment of the amount of the award as soon as reasonably practicable following the review hearing.

Agreement prior to a review hearing.

32.(1) The chairman must withdraw the referral of the review of the assessment of the award where paragraph (2) applies.

(2) This paragraph applies where the solicitor to the inquiry and the applicant for the award have agreed on the amount of the assessment at any time after the date of the chairman's referral of the application to the costs assessor until the date of the review hearing.

(3) The solicitor to the inquiry must issue the final assessment as soon as practicable following an agreement being reached under paragraph (2).

Making an award.

33.(1) Where the award is not to be reviewed, the chairman must make an award and arrange for payment of the final assessment within twenty-eight days of the final assessment being sent to the applicant.

(2) Where the amount of the award has been reviewed, the chairman must make an award of the amount of the costs assessor's assessment and arrange for payment within twenty-eight days of the assessment being sent under rule 31.

Making Protocols.

34.(1) Without derogating from specific provisions of the Act, the terms of reference or any other provision of the instrument under section 6 appointing the Chairman or these Rules, the chairman may make protocols governing any aspect of the procedure of an Inquiry including (but without prejudice to the generality of foregoing) in relation to:

- (a) The grant of core participant status and designation of recognised legal representatives.

- (b) Written evidence and the examination of witnesses.
 - (c) Vulnerable witnesses and restrictions on public access.
 - (d) Legal Representation at public expense and the award of amounts in respect of legal representation (“Funding Protocol”).
 - (e) Receipt and handling of documents, redactions and records management.
 - (f) Livestreaming of Inquiry proceedings.
 - (g) Use and processing of personal data (Privacy Notice)
 - (h) The protection of special category and criminal convictions personal data (Appropriate Policy Document)
- (2) A protocol under paragraph (1) may also specify the terms of any confidentiality undertaking required to be given to the Chairman in relation to any information, evidence or other material to be provided by it to any person, or generally.
- (3) The Schedule to these rules contains model protocols which the chairman of an Inquiry may adopt with such additions, deletions or other modifications as the chairman may consider appropriate to the circumstances of the Inquiry.

SCHEDULE

Part 1

**Model Protocol relating to the Granting of Core Participant Status and designation of
Recognised Legal Representatives**

Core Participants and Recognised Legal Representative Policy

Purpose of policy

1. The purpose of this Policy is to:
 - Explain what a Core Participant is;
 - Explain the rules governing applications to be designated a Core Participant in this Inquiry;
 - Notify those who may wish to be designated a Core Participant in this Inquiry that applications may now be made, and explain the process for making such an application; and
 - Explain the designation of recognised legal representatives in this Inquiry.

Core Participants

2. A Core Participant is a person, an organisation or other entity (hereafter “a person”) with a significant interest in the subject matter of the Inquiry and designated a Core Participant in the Inquiry pursuant to this policy having regard, in particular, to the factors specified in paragraph 5(2) of the Inquiry Rules.
3. Core Participants enjoy participatory rights in the Inquiry. Anyone designated a Core Participant will:
 - be provided with disclosure of evidence which the Chairman considers is relevant to their participation in the Inquiry. Such disclosure will be subject to any restrictions issued and undertakings required by the Chairman in accordance with any applicable

protocol relating to the receipt and handling of documents, redaction and records management;

- have the opportunity to make opening and closing statements at the main Inquiry hearing, either via their recognised legal representatives or, if unrepresented, themselves (unless the Chairman directs otherwise);
 - be able to suggest lines of questioning at oral hearings via Counsel to the Inquiry; and
 - be able to ask questions of witnesses during the main Inquiry hearing through their recognised legal representatives.
4. It is, however, important to stress that it is not necessary to be designated as a Core Participant in order to:
- provide information or evidence to the Inquiry or to be a witness during the Inquiry's proceedings;
 - receive expenses for attending the Inquiry as a witness if the relevant criteria are met in the Act in accordance with any protocol relating to legal representation at public expense;
 - watch or attend public hearings (unless the Chairman decides to hear evidence in private); or
 - read transcripts of hearings, witness statements and other documents or evidence that is available on the Inquiry's website.

Grant of Core Participant status

5. When considering applications to be designated a Core Participant, the Chairman will consider, in particular, whether:
- the person played or may have played a significant role in relation to matters to which the Inquiry relates;

- the person has a significant interest in an important aspect of the matters to which the Inquiry relates; or
 - the person may be subject to significant criticism during the Inquiry proceedings or in its final or any interim report.
6. Whilst applications are welcomed from those who suggest that one or more of the circumstances mentioned above exist in their case, the Chairman is not obligated to designate anyone as a Core Participant on the grounds that such circumstances are found to exist in the case of such an applicant. The Chairman will additionally have regard to the need for him to act fairly and to avoid any unnecessary cost. Indeed, the Chairman has a wide discretion in considering applications and this will be exercised with an open mind: fairly; consistently, and objectively.
7. It is not mandatory for persons who were affected by the matters to which the Inquiry relates to be designated as Core Participants in order to play a role in the Inquiry. It is possible to be a witness or to attend hearings without such designation. Indeed, the Inquiry Rules contains provisions for the recognition of legal representatives for witnesses without needing those witnesses to be Core Participants.

Invitation to submit applications to be designated a Core Participant

8. Applicants are invited to submit applications for designation as a Core Participant to the Solicitor to the Inquiry no later than [insert date] by email [insert email address] , or by post to: [insert address]
9. If an applicant requires assistance with making an application, they should contact the Solicitor to the Inquiry.
10. Applications should not exceed 5 pages of A4 paper in size 12 font and must:
- state the factual basis for the application, and in particular:
 - i. state the applicant’s connection with the matters being investigated by this Inquiry;
 - ii. identify the topics on which the applicant could give evidence;

2024-04

Inquiries

2026/078

Inquiry Rules 2026

- specify, having regard to the factual basis for the application, how the applicant satisfies one or more of the criteria in paragraph 5 above;
 - indicate how the grant of Core Participant status would assist the Inquiry in furtherance of its Terms of Reference;
 - confirm the applicant provides consent to be designated a Core Participant (it is expected that anyone applying for Core Participant status would be willing to be designated a Core Participant before submitting their application);
 - confirm whether the applicant is represented or wishes to be represented by a legal representative;
 - if the applicant is legally represented, details of the legal representative.
11. The Inquiry will assist individuals who do not have legal representation to complete the application.
 12. The Chairman will consider all applications submitted and, if he considers that further information is required before he can make a decision, he may require the applicant to provide such further information as he considers necessary. Further, if he considers it to be necessary, the Chairman may require an applicant to appear before him to make an oral application for Core Participant status including via video-link or telephone.
 13. It is the Inquiry's aim to consider and make decisions on Core Participants' applications expeditiously. The Chairman will begin the process of making decisions as soon as applications are received. Applications must be made no later than [insert date]. The Chairman will not consider applications made after that date, unless the applicant gives a good reason for the delay.

Applications submitted prior to the publication of the Core Participant Protocol

14. The Inquiry asks that any person who has submitted an application for Core Participant status prior to publication of this Policy checks that it is compliant with the requirements outlined in paragraph 10 of this Policy. Any missing information should be submitted as soon as reasonably practicable so that the Inquiry has a complete application for consideration.

Designation of recognised legal representatives

15. The Inquiry's designation of recognised legal representatives (as defined in any funding protocol) for Core Participants is separate from the Chairman's decision to designate an individual as a Core Participant.
16. Where a Core Participant in receipt of a legal expenses funding award pursuant to the Inquiry Rules and any funding protocol appoints a qualified lawyer to act on their behalf, the Chairman will determine whether to designate that lawyer as that Core Participant's recognised legal representative for the purposes of the legal expenses funding award.

Applications for legal representation at public expense

17. Once the Inquiry has considered an application for Core Participant status, it will also consider whether to invite an application by that Core Participant for a Legal Expenses Funding Award in accordance with any Funding Protocol. The Inquiry Rules state that the Chairman must take into account whether making an award is in the public interest. It should therefore not be assumed that the grant of Core Participant status automatically entitles a Core Participant to receive funding for their legal representation.

Confidentiality

18. As set out in paragraph 3 of this Policy, the designation of Core Participant status affords an individual access to certain disclosure, and the Inquiry Rules entitle them to receive an advance copy of reports. Core Participants and their legal representatives must agree to treat the information contained in these materials confidentially. Confidentiality is important to the work of the Inquiry as it helps maintain trust and allows the Inquiry to undertake its work fairly. To this end, Core Participants and their legal representatives will be required to sign confidentiality undertakings before they can have access to certain documents.
19. The confidentiality undertaking will set out the terms that Core Participants and their legal representative will have to adhere to and the terms will include (but not necessarily be limited to):

2024-04

Inquiries

2026/078

Inquiry Rules 2026

- a prohibition on using the information for any other purpose than taking part in the Inquiry’s proceedings (without the express permission of the Inquiry); and
- a prohibition on disseminating or circulating the information provided by the Inquiry to a third party (without the express permission of the Inquiry).

Removal/termination of Core Participant Status

20. A person will cease to be a Core Participant either: upon the Chairman deciding to remove such status (in which case this would take place on a date specified by the Chairman) or at the end of the Inquiry.

Made by the Chairman on [insert date]

Part 2

Model Protocol relating to Written Evidence and the Examination of Witnesses

Witness Examination Policy

Publication of affidavits and witness statements

1. Affidavits (and exhibits to affidavits) will be uploaded to the Inquiry’s website as follows:
 - a. In the case of witnesses who give oral evidence to the Inquiry at the main Inquiry hearing, the witness’ affidavit will be uploaded after the witness gives evidence, usually within two working days.
 - b. In the case of witnesses who do not give oral evidence to the Inquiry, the witness’ affidavit will be uploaded shortly after the conclusion of the main Inquiry hearing.
2. Parts of an affidavit (including Exhibits) which are deemed by the Chairman not to be relevant to the issues under Inquiry will not be admitted in evidence and accordingly will be redacted or excluded before the affidavit is uploaded to the Inquiry website. Witness statements will also be subject to redactions or exclusions determined in

accordance with the procedure in any protocol relating to documents handling or for any other reason determined by the Chairman.

Witness examination

3. Sworn affidavits will stand as a witness's evidence in chief but Counsel to the Inquiry ("CTI") may ask questions to highlight critical parts of their evidence.
4. Questioning of a witness will be conducted principally by Counsel to the Inquiry ("CTI")
5. Save where under the Inquiry Rules a person has the right to question a witness, that is where it is in the discretion of the chairman, witness examination will follow two different procedures, dependent on whether a witness is categorised as "restricted" or "unrestricted".

Restricted witnesses

6. The procedure for **restricted** witnesses will fall within a "hybrid model", along the following lines:
 - a. The chairman recognises that effective participation by a person, and protection of their interests and reputation, and indeed public confidence in the Inquiry, may justify – and even require – that he permit that person to question a witness on identified topics, issues or questions. If any person would like to have any topics, issues or questions put to a witness or to question a witness themselves, those questions should be put forward in writing to CTI **14 days** before the witness is due to give evidence (according to the Inquiry's Hearing Timetable to be published in advance of the Main Inquiry Hearing). Questions should be submitted via email to CTI, and also to the Solicitor to the Inquiry.
 - b. The Inquiry Team will consider any request to ask questions in the context of that person's role in the Inquiry. If there is a factual dispute or credibility issue between the witness and the person making such a request, that will be a strong starting point for a request (or subsequent application) to question the witness to be granted.

- c. CTI will then indicate:
- i. whether he intends to pursue that topic, issue or question with the witness;
 - ii. that counsel for the person making the request may pursue the topic, issue or question with the witness; or
 - iii. that the topic, issue or question cannot be pursued, subject to applying to the Commissioner for permission to do so.

If the person making the request disagrees with CTI's indication, it will be open to them to apply (in writing) to the Commissioner for permission to question the witness as proposed. This application must be made in writing to the chairman (via the Solicitor to the Inquiry) no later than 7 days before the witness is due to give evidence.

- d. Circumstances may arise where the requisite 14 or 7 days' notice is not possible, for example where oral evidence is given either by the witness in question or a different witness which gives rise to a need to question on a particular issue. In such limited circumstances urgent requests to CTI or applications to the chairman for permission to question a witness can be made (in writing or orally). It is emphasised that such requests or applications will only be granted in those limited circumstances. Requests in writing should be submitted via email to CTI, copying the Solicitor to the Inquiry.
- e. Any permitted (whether by decision of the chairman or as of right under the Inquiry Rules) questioning:
- i. may be subject to time limits by the chairman, which will be set while taking into consideration the overarching priority of fairness to parties who are or may be the subject of criticism, and who must be afforded the opportunity to participate fully in the process;
 - ii. in the case of permission by the chairman, must be confined to the topics, issues or questions identified in the permission;

- iii. must remain focused on the matters under inquiry by the Inquiry; and
- iv. must not prejudice any pending criminal investigation or trial.

Unrestricted witnesses

7. The procedure for **unrestricted** witnesses will follow a “traditional model”, along the following lines (subject to the Commissioner’s absolute discretion):
- a. CTI will question the witness to highlight or challenge such points as he may deem appropriate.
 - b. Although generally ‘cross-examination’ does not take place in an Inquiry context, the chairman recognises that it might be desirable that unrestricted witnesses be questioned by persons other than CTI, for example in circumstances where a witness seriously impugns the evidence of a person. Accordingly, after CTI has examined the witness, the witness will then be questioned by counsel for other persons who are unrestricted witnesses but such cross-examination should not cover topics already fully covered by the examination by CTI. The witness will first of all be questioned by counsel most appropriate to do so, as determined in advance by the Commissioner. Without prejudice to the right of a person under the Inquiry Rules to ask questions, it will usually be unnecessary for all who are unrestricted witnesses to examine each unrestricted witness.
 - c. If a person (who is not an unrestricted witness) wishes to question a restricted witness, they should follow the procedure set out above in 5(a) to (d).
 - d. The witness will be ‘examined’ by their own counsel (or counsel most closely representing their interest),
 - e. Finally, CTI may ask any additional questions if necessary.

Made by the Chairman on [insert date]

Part 3

Model Protocol relating to Vulnerable Witnesses and Restrictions on Public Access

Introduction

1. The purpose of this protocol is to set out the principles which will guide the Inquiry in its treatment of vulnerable witnesses, and general restrictions on public access.

Core principles

2. The core principles of the Inquiry's interactions with witnesses are:

- a. every witness should be able to give evidence with dignity and to the best of his or her ability;
- b. the Chairman should be in the best position to assess the quality of that evidence; and
- c. the process of being a witness does not begin once sitting in the witness box, but includes preparing for, making, editing and approving any formal statement (written or otherwise, whether or not given under oath). Nor does the process end once leaving the witness box, as many witnesses are in fear of reprisal after giving their evidence.

Definition of witness

3. For the purposes of this protocol a witness is anyone who gives evidence to the Inquiry, regardless of whether he or she is also a Core Participant.

Definition of vulnerability

4. A person shall be considered “vulnerable” for the purposes of this protocol if there is – or reasonably perceived by the witness to be – a significant risk that by reason of threat, fear or intimidation or by reason of one or more personal characteristics, he or she will:

- a. experience added stress or other difficulty in being a witness or potential witness; and/or
- b. suffer a likely detrimental effect in the quality of any statement or evidence which they give; and/or
- c. require greater than normal support to ensure their participation; and/or

d. be at significant risk that by giving evidence he or she may suffer a worsening of their mental health or wellbeing.

Personal characteristics

5. These characteristics include, but are not limited to any of the following:

- a. Age;
- b. A significant impairment of intelligence or social functioning;
- c. A recognised mental disorder;
- d. Physical disability or disorder;
- e. Substantial fear or distress related to testifying about matters relevant to the Inquiry;
- f. Difficulties with communicating in spoken English;
- g. Difficulties with communicating in written English;
- h. Difficulties with reading;
- i. Any condition which, whilst not amounting to a disorder is such as to affect significantly the ability of the individual to be a witness or potential witness.

Identifying a vulnerable witness or potential witness

6. It is essential to a fair inquiry that anyone who is or may be vulnerable as defined in paragraph 4 above is identified as such at the earliest opportunity. The assistance and co-operation of anybody involved in taking statements from such an individual is of vital importance.

7. It is possible for an individual's vulnerabilities and needs to develop or change over time. It is essential that any changes in an individual's vulnerabilities or needs be communicated to the Solicitor to the Inquiry as soon as they are discovered.

8. In any event, every statement from anyone who is or may be a witness and who is or may be vulnerable should be accompanied by the Vulnerability Questionnaire which is annexed to this Protocol.

9. It is for the Chairman to determine whether any witness should be considered vulnerable within the meaning of this protocol. In making this determination, the Chairman will take into account:

- a. Considerations relevant to Articles 2 and 3 of the European Convention on Human Rights, if the facts require it.
- b. The applicant's subjective fears, even if not well-founded.
- c. Whether the evidence supplied to the Inquiry is likely to attract the interest of those elements thought to pose a risk to the witness.
- d. Whether the fears entertained by the witness are genuinely and reasonably held.
- e. The potential for the measures sought to cause injustice to persons against whom serious allegations have been made, and the erosion of public confidence in the Inquiry which might ensue as a consequence of permitting a witness (or category of witness) to remain anonymous.

MEASURES TO ASSIST VULNERABLE WITNESSES

General principles

10. Where the Chairman determines that a witness is vulnerable within the meaning of this protocol, he may also direct that additional measures be taken to assist a witness in participating effectively in that role or to improve the quality of their evidence.
11. Before making any direction the Chairman shall, where possible, ascertain and take into consideration the views of the witness on the appropriateness and nature of any additional measures.

Additional measures

12. The Chairman has a wide discretion to make such directions as he considers necessary to achieve the core principles set out above. Such directions may include, but are not limited to any one or more of the following:
 - a. The appointment of an intermediary: The Inquiry may appoint an intermediary to assess (and report upon) the additional needs of any witness, to assist with the making of a statement and/or to assist the individual when giving evidence.
 - b. The appointment of an interpreter.
 - c. The making of a recorded interview in place of (or, exceptionally, in addition to) a written statement:
 - i. Where a witness is unable to make a witness statement in the normal way or

the Chairman considers it appropriate so to do, the account of an individual may be taken by way of a recorded interview.

II. The interview shall be conducted in a manner approved by the Chairman.

III. The interview will normally be conducted by a member of the Inquiry team, although the Chairman may approve another individual outside that team to conduct the interview.

IV. At any such interview, the witness or potential witness may be accompanied (in the interview room) by their solicitor (if they have one). In the absence of a solicitor, the witness may be accompanied by a friend or relative.

V. The recording of the interview should be audio-visual. Exceptionally, if such a method of recording is not reasonably practicable, the Chairman may give permission for the recording to be solely audio.

d. Screens: The Chairman may direct that the witness be screened in any way which, in his judgement, achieves the core principles.

e. Live link from a remote location.

f. The support of a friend or relative (sitting with the witness as he/she gives evidence). Any such person shall play no part in the witness giving evidence unless directed to do so by the Chairman.

g. Frequent breaks at prescribed times, or as necessary.

h. Time limits for questioning a witness.

i. A preliminary hearing for establishing the appropriate boundaries for questioning, sometimes called a Ground Rules Hearing.

Questioning of vulnerable witnesses

13. Questions to a vulnerable witness must be straightforward and appropriate for a witness with his or her vulnerabilities.

Vulnerable witnesses who are unable to give evidence before the Inquiry

14. If the Chairman determines that, by reason of their vulnerability, a witness is unable to give evidence, in person, before the Inquiry he may:

a. permit any signed statement or recorded interview made by that person to be received in evidence; and/or

- b. if no recorded interview exists, instruct counsel to the Inquiry to conduct such an interview (if reasonably practicable so to do).

Children and young people

15. No person under the age of 18 shall make any statement or give evidence unless specifically agreed to in advance by the Chairman. The Chairman may direct the manner in which any statement is to be taken and/or the manner in which evidence is to be given.

16. Should any recognised legal representative wish for a statement to be taken from a person under 18, they should make an application to the Chairman as soon as practicable, explaining the particular reason why it is necessary.

17. In deciding whether such a statement should be taken, the matters which the Chairman will take into account include:

- a. The importance of the information which can be given by the young person;
- b. Whether that information is available from other sources (especially witnesses over 18);
- c. The age, maturity and individual character of the young person, in particular whether he or she can participate without being caused unacceptable further trauma;
- d. The wishes of the child or young person;
- e. The views of the parents or carers of the young person and those of any professionals who work with the child or young person;
- f. Any intermediary's report (if obtained).

Assistance with vulnerability issues

18. The Inquiry Team includes counsel and solicitors with experience in dealing with vulnerable witnesses and individuals. They may be contacted by any representative who has a concern about the potential vulnerability of an individual or who needs any assistance in interpreting this protocol.

Restriction (including anonymity of witnesses) on public access etc

19. Restrictions may be imposed by the Chairman on either:

- a. attendance at the Inquiry; or

b. disclosure or publication of any evidence or documents given, produced or provided to the Inquiry (including, for the avoidance of doubt, an order that a witness might give evidence anonymously, or that a witness need not give their name in public, or a reporting restriction to prevent the publication of the name of a witness (or of any details by which they might be identified)).

20. Any applications for restrictions under the preceding paragraph should be made separately to the Chairman and will be considered in accordance with the following principles:

a. Restrictions may be imposed by being specified in an order made by the Chairman during the course of the Inquiry.

b. Any such order must only be made where the Chairman considers it to be conducive to the Inquiry fulfilling its Terms of Reference or necessary in the public interest, having regard to the following matters:

i. the extent to which any restriction on attendance, disclosure or publication might inhibit the allaying of public concern;

ii. any risk of harm or damage that could be avoided or reduced by any such restriction;

iii. any conditions as to confidentiality subject to which a person acquired information that he or she is to give, or has given, to the Inquiry;

iv. the extent to which not imposing any such restriction would be likely to cause delay to or impair the efficiency or effectiveness of the Inquiry, or otherwise to result in additional cost (whether to public funds or to witnesses or others).

c. In sub-paragraph (b)(ii) above “harm or damage” includes in particular-

i. death or injury;

ii. damage to national security or international relations;

iii. damage to the economic interests of Gibraltar or the United Kingdom;

iv. damage caused by disclosure of commercially sensitive information.

Made by the Chairman on [insert date]

**ANNEX VULNERABILITY
QUESTIONNAIRE**

1. Name of individual
2. Date of birth
3. Address
4. Solicitor acting on behalf of the individual, if any
5. Name of person completing this form (and relationship to vulnerable person)
6. Why may this witness or potential witness be vulnerable?
7. Will their vulnerability affect their ability to make a statement? If so, how?
8. Will their vulnerability affect their ability to give evidence? If so, how?
9. What “special measures” or other directions if any, may assist this individual?
10. Is there any material which the Inquiry should obtain to assist them in determining how best to assist this witness or potential witness?
11. Any further relevant information?

Part 4**Model Protocol relating to Legal Representation at Public Expense and the
Chairman’s Power to Award Amounts in Respect of Legal Representation****The Funding Policy**

Under section 32(1) of the Inquiries Act (“the Act”), the Chairman has a statutory power to and may award reasonable amounts to a person:

- (a) By way of compensation for loss of time; or
- (b) In respect of expenses properly incurred, or to be incurred in attending, or otherwise in relation to, the inquiry.

Under section 32(2) the power to make an award under section 32 includes power, where the Chairman considers it appropriate, to award amounts in respect of legal representation. In

this Protocol such awards are referred to as “Legal Expenses Funding awards”.

Under section 32(3) a person is eligible for an award under this section only if he is:

- (a) A person attending the Inquiry to give evidence or to produce any document or other thing; or
- (b) A person who, in the opinion of the Chairman, has such a particular interest in the proceedings or outcome of the inquiry as to justify an award.

Under section 32(4) the power to make an award under section 32 is subject to such conditions or qualifications as may be determined by the Government and notified by it to the Chairman.

This Protocol outlines the circumstances in which the Chairman may award amounts in respect of legal representation and explains the process for the assessment of legal expenses awards. This Protocol is subject to the overriding discretion of the Chairman in respect of the exercise of his power under section 32 and any conditions or qualifications as may be notified to the Chairman by Government from time to time. Under section 31(2) of the Act the Government must pay any amounts awarded under section 32.

This Protocol relates to applications for Legal Expenses Funding awards; and following a decision by the Chairman that a person should receive a Legal Expenses Funding award, the assessment of the legal expenses which will be payable under the Legal Expenses Funding award.

General principles concerning applications for Legal Expenses Funding awards

1. In exercising his power to make a Legal Expenses Funding award, the Chairman will:
 - (a) act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or witnesses or others); and
 - (b) ensure that he complies with the qualifications and conditions set out in the Inquiry Rules and this Protocol.
2. A person is eligible to be considered for a Legal Expenses Funding award only if she/he/it is:

- (a) a person attending the Inquiry to give evidence or to produce any document or other thing; or
 - (b) a person who, in the opinion of the Chairman, has such a particular interest in the proceedings or outcome of the Inquiry as to justify such an award.
- 3. Paragraph 2 is subject to such conditions or qualifications as may be determined by Government and notified by it to the Chairman.
- 4. Subject to the qualifications and conditions in this Protocol, the Chairman will, when determining an application for a Legal Expenses Funding award and exercising his discretion under section 32, take into account: whether making a Legal Expenses Funding award is in the public interest.
- 5. Having regard to the criteria and considerations set out this Protocol, the Chairman envisages that normally a Legal Expenses Funding award will be made only in cases where he decides (reflecting the requirements of the Inquiry Rules in this respect) that:
 - (a) the conduct of the applicant is the subject of inquiry; and/or the applicant is in any way implicated or concerned in the matters under inquiry; and
 - (b) significant criticism of the applicant may be inferred from the material contained in the Inquiry Bundle and/or the applicant may be subject to significant criticism in the course of the Inquiry's proceedings or in its final or any interim report; and
 - (c) the applicant would be prejudiced in seeking legal representation if there were any doubt about funding for payment of the same and there were no other means for such funding; and
 - (d) it is fair, necessary, reasonable and proportionate to make a Legal Expenses Funding award to the applicant and that such an award is an appropriate use of public funds.
- 6. In respect of the criterion in subparagraph 5(c), Legal Expenses Funding awards will also generally not be made in respect of the legal expenses of substantial bodies, or individuals who could reasonably expect those expenses to be met by such bodies, or where legal expenses insurance is available, unless there are special circumstances

which would justify a call on public funds.

The scope of the legal representation covered by a Legal Expenses Funding award

7. In this Protocol, and in accordance with the Inquiry Rules, “recognised legal representative” means a barrister or solicitor in Gibraltar duly registered under sections 6(3)(a), 6(3)(c) or 6(3)(i) of the Legal Services Act.
8. Wherever possible (and subject to any conflicts of interest), applicants are encouraged to instruct recognised legal representatives who are already retained by other applicants and/or witnesses to the Inquiry in order to minimise expenses and maximise the likelihood of a Legal Expenses Funding award being made.
9. Where the Chairman considers that: (a) the interests in the Inquiry of two or more applicants are similar; (b) the facts which they are likely to rely upon in the course of the Inquiry are similar; and (c) it is fair and proper for them to be jointly represented, the Chairman may direct that they be represented by a single recognised legal representative and, if the applicants are unable to agree on the identity of the single recognised legal representative, the Chairman may designate the same after inviting the applicants to make representations.
10. If the Chairman believes that the interests of any applicant may conflict with the interests of any other applicants, witnesses or parties to the Inquiry, he shall advise those persons and any Legal Expenses Funding awards will be made on the basis that separate recognised legal representatives are required.
11. Where the Chairman determines to make a Legal Expenses Funding award, this will normally be limited to the expenses of a recognised legal representative incurred in relation to some or all of only the following matters:
 - (a) considering initial instructions;
 - (b) considering the material contained in the documentation provided to the applicant with the request issued by the Inquiry that they make a witness statement, so far as is necessary properly to represent the client’s interests;
 - (c) advising the client in relation to and for the purpose of the making of a witness statement, in accordance with a request made by the Inquiry, which request

may include a description of the matters and/or issues to be covered in the witness statement;

- (d) representing the client during their oral evidence;
- (e) any other matters that the Chairman may deem necessary.

Applications for awards and procedures for agreeing the level of funding

12. An applicant who wishes to apply for a Legal Expenses Funding award should submit an application under section 32 of the Act and in accordance with the Inquiry Rules in that respect, to the Solicitors to the Inquiry specifying the following with as much supporting information and evidence as possible:

- (a) the reason(s) why legal representation is considered necessary;
- (b) the extent of the applicant's financial resources and confirmation that there are no other means by which such representation can be funded;
- (c) the reason that the applicant contends it would be in the public interest for an award being made from public funds;
- (d) the nature, function and extent of the legal representation for which the award is sought;
- (e) the size and composition of the legal team whom the applicant proposes to engage, including the seniority and proposed hourly charging rates for all persons to be so engaged, subject to the following maximum hourly rates –
 - i. KCs: £ [insert amount]
 - ii. Junior Counsel/Solicitors (10+ years call or PQE): £ [insert amount]
 - iii. Junior Counsel/Solicitors (5-10 years call or PQE): £ [insert amount]
 - iv. Junior Counsel/Solicitors (<5 years call or PQE): £ [insert amount]
 - v. Trainee solicitors/pupils/paralegals: £ [insert amount]
- (f) The estimated duration of the recognized legal representation;
- (g) the number of hours each week it is anticipated that the recognised legal

representative will be engaged on Inquiry work, having regard to the interest of the applicant;

- (h) particulars of any other foreseeable expenses which the person anticipates claiming in relation to legal representation.

Determination of Applications

13. Having regard to the provisions of the Act, the Inquiry Rules and this Protocol, the Chairman will determine an application for a Legal Expenses Funding award within a reasonable time.
14. Notwithstanding any other paragraph in this Protocol for the avoidance of doubt it is declared that applications for payment following the grant of a Legal Expenses Funding award and assessment of those applications for payment in accordance with the provisions of paragraphs 18-25 of this Protocol will be subject to the following limits:
 - (a) in respect of the matters more particularly described at paragraphs 11(a), 11(b) and 11(c) of the Protocol the total payment under the Legal Expenses Funding award shall not exceed [insert sum]. The Chairman may increase the £[insert amount] limit only in exceptional cases upon the application of the applicant or the applicant's legal representative, and any such increase shall be at the Chairman's sole discretion;
 - (b) in respect of the matters more particularly described at paragraphs 11(d) and 11(e) the total payment under the Legal Expenses Funding award will be limited to the duration of the oral evidence given by their client to the Inquiry and/or to such other time period that the Chairman directs, on receipt of an application, by the legal representative under paragraph 12.
15. The Solicitors to the Inquiry will notify the applicant in writing of the Chairman's determination and, where a Legal Expenses Funding award is made, the terms of the award. Such terms may include (but are not limited to) the following:
 - (a) the nature and scope of the legal representation that is to be funded; this is likely to be in relation to some or all of the matters set out in paragraph 11 of this Protocol; it should be noted that, having regard to the inquisitorial nature

of the Inquiry –

- normally, investigative work will not be funded, as this is the role of the Inquiry;
 - payment will not be made for obtaining items such as expert reports, unless previously authorised by the Solicitors to the Inquiry on behalf of the Chairman;
- (b) the size and composition of the recognised legal representative’s legal team to be engaged, including the seniority and number of counsel where that is agreed necessary;
- (c) the hourly rates for all counsel, solicitors and paralegals to be engaged;
- (d) subject to paragraph 14, the capping of the maximum number of hours work which may be charged by the recognised legal representative for any week (Monday to Sunday) with the maximum cap being 40 hours/week, even if the number of hours actually worked exceeds that cap, save that, exceptionally, the Solicitors to the Inquiry may authorise on application an increase to the cap which does not exceed the cap by more than 10% where they are satisfied that such increase is justified in all the circumstances; no unused hours in any one week below the cap may be put towards any other week;
- (e) the maximum hourly rates for travel and waiting time by a recognised legal representative shall be 25% his/her agreed hourly rate relating to legal work; travelling and/or waiting time is to be included within the cap on the maximum weekly number of hours that can be charged by an applicant’s recognised legal representative and in no case will be allowed in addition;
- (f) disbursements in excess of £100/month will not be paid unless authorised in advance by the Solicitors to the Inquiry; disbursements under £100/month will only be paid where the expenditure is adjudged to have been reasonable and necessary and where supported by evidence of payment;
- (g) a Legal Expenses Funding award is subject to the condition that payment will

only be made for work that is properly evidenced and can be identified as having been done in an efficient and effective manner, avoiding unnecessary duplication, and making the best use of public funds;

(h) the form in and the frequency with which bills relating to legal expenses are to be submitted.

16. Expenditure incurred before the making of a Legal Expenses Funding award will not normally be recoverable, except where it has been expressly agreed in advance by the Solicitors to the Inquiry on behalf of the Chairman.

17. It will be open to the Chairman, either initially or at any time after making a Legal Expenses Funding award, to amend and/or impose further conditions on the award. In particular, he may determine that a lower weekly cap should be imposed.

Budgeting and billing procedures

18. Applicants in relation to whom the Chairman has decided in accordance with this Protocol that a Legal Expenses Funding award should be made or their recognised legal representatives on their behalf should submit:

(a) budgets relating to the applicants' expected legal expenses at monthly intervals;

(b) bills relating to the applicants' legal expenses at monthly intervals

to the Solicitors to the Inquiry. Such budgets and bills are to be received no later than 7 days immediately prior to the beginning (in the case of budgets) and following the end (in the case of bills) of the month to which they relate, with a final bill to be submitted no later than one month after final submissions to the Inquiry are made.

19. Budgets and bills should contain or be accompanied by the following information:

(a) a copy of the relevant Legal Expenses Funding award, including the hourly rates for each recognised legal representative as determined by the Chairman;

(b) for each recognised legal representative, (i) in the case of budgets, a breakdown/print out of the work to be undertaken/the time to be spent and cost thereby to be incurred, and (ii) in the case of bills, a breakdown/print

out of the work undertaken/the time spent and cost thereby incurred. It will not be acceptable to submit general budgets or claims along the lines of a 'brief fee', 'refresher' or 'preparation'; and

- (c) a list of disbursements (details and cost) expected (in the case of budgets) or incurred (in the case of bills).

Procedure for assessments of amounts payable under a Legal Expenses Funding award

20. In assessing bills submitted subject to a Legal Expenses Funding award for eligibility for payment under the award, the Solicitors to the Inquiry will have regard to all the circumstances, including in particular the provisions of this Protocol and whether the sums billed –
 - (a) relate to work falling within the relevant Legal Expenses Funding award;
 - (b) were proportionately and reasonably incurred; and
 - (c) are proportionate and reasonable in amount.
21. Any work undertaken by an applicant's recognised legal representative which relates to matters outside the Inquiry's terms of reference and/or the issues it identifies for investigation, or which otherwise does not comply with the terms of the award notified to the applicant under paragraph 15 of this Protocol, will be disallowed.
22. The Solicitors to the Inquiry will use their best endeavours to provide to applicants/their recognised legal representatives their assessment of a bill submitted subject to a Legal Expenses Funding award for eligibility for payment under the award within 2 months of receipt of the bill.
23. If the Solicitors to the Inquiry have no objections to any items included within a bill, their assessment for eligibility for payment will be the final assessment.
24. If the Solicitors to the Inquiry have objections to any items included within the bill, the assessment should:
 - (a) identify each item to which the Solicitors to the Inquiry object;
 - (b) state the nature of the objection for each item; and

- (c) where reductions to items are sought, propose the reduced amounts to be allowed.
25. If the applicant disagrees with such an assessment, the applicant or his/her/its recognised legal representative must provide a written response to the Solicitors to the Inquiry within 1 month of the assessment having been sent to the applicant or his/her/its recognised legal representative. If such a written response is not received by the Solicitors to the Inquiry within 1 month, the assessment as issued by the Solicitors to the Inquiry will be deemed to be accepted and be the final assessment.
26. Where there remains a disagreement in relation to an assessment, the Chairman of the Inquiry may:
- (a) engage the assistance of the Registrar of the Supreme Court by referring to the assessment together with all relevant evidence and documentation to him/her; or
 - (b) determine the matter and require the Solicitors to the Inquiry to issue a final assessment of the disputed bill.

Making an award

27. When a final assessment of a bill has been issued, this will be referred by the Solicitors to the Inquiry to the Secretary to the Inquiry who will pass this on to Government for payment. The Government must then pay the amounts awarded. Any queries relating to the processing of payments should also be directed to the Secretary to the Inquiry.
28. Failure to adhere to, or comply with, any of the matters or procedures set out in this Protocol could result in payment of bills being delayed or refused.
29. The Chairman and the Solicitors to the Inquiry retain the discretion to vary the application of the terms of this Protocol on a case-by-case basis where it is considered necessary for the proper conduct of the Inquiry.

Made by the Chairman on [DATE]

Part 5:

Model Protocol for Receipt and Handling of Documents, Redaction and Records Management**Introduction and aims**

1. This Protocol addresses:
 - (a) The production of documents to the Inquiry by core participants, providers of documents and the public.
 - (b) The handling and receipt of such documents.
 - (c) The redaction of such documents.
 - (d) Records management and security by the Inquiry team
2. This Protocol is designed to facilitate the prompt delivery of documents to the Inquiry by ensuring that all core participants, providers of documents and the public are aware of and understand the Inquiry's procedure for the:
 - (a) Provision of documents to the Inquiry and the handling of such documents.
 - (b) Prompt delivery of documents to the Inquiry.
3. The procedures set out in this Protocol are not intended to cover every eventuality. It follows that, in exceptional cases, where the interests of justice and fairness require it, the Inquiry may need to depart from this Protocol. Further, this Protocol may be amended from time to time, in which case an amended version will be published on the Inquiry website (if it has one).
4. Where the Chairman needs to make a decision as to the procedure or conduct of the Inquiry not covered by the Inquiry Rules or this Protocol, he will, in accordance with section 17(3) of the Inquiries Act 2024 ("**the Act**"), act fairly and with regard to the need to avoid unnecessary cost.

Definitions

5. In this Protocol:

"**Business information**" includes any document which is generated by the Inquiry and its team during the course of its work and does not include evidential material supplied by PODs.

“**Core Participant (“CP”)**” means persons or entities who have been granted core participant status (as may be more particularly defined in a Core Participants Policy).

“**Document**” means anything in which information of any description is recorded, whether in paper or in electronic form. It will include but is not limited to contract documents, design plans, technical drawings, blueprints, reports, reviews, committee/board minutes, meeting/attendance notes, manuscript notes, memoranda, letters, leaflets, circulars, emails/texts/instant messages, legislation, policy documents/statements, photographs, video and audio recordings and physical evidence.

“**Provider of documents (“POD”)**” means any person, institution or organisation, which has been asked to provide documents to the Inquiry or that has provided documents to the Inquiry (and includes any CP who has been asked or required to provide documents to the Inquiry).

“**Relevant documents**” are those which, having regard to the Inquiry’s Terms of Reference, it is likely that the Inquiry panel would (if aware of their existence) wish to be provided with.

PART A: PRODUCTION, HANDLING AND RECEIPT OF DOCUMENTATION

6. The Inquiry requests anyone who holds relevant documents to supply those documents to the Inquiry.
7. Any person who is in possession of relevant documents should contact the Inquiry as soon as possible so that the necessary arrangements can be made for receipt of those documents, via email to the Solicitor to the Inquiry.
8. Wherever possible the Chairman intends to rely on voluntary co-operation for production to the Inquiry of the documents he considers necessary to fulfil the *Terms of Reference*.
9. The Chairman will normally make a request for voluntary production of documents by means of a letter from the Solicitor to the Inquiry to the person believed to have custody or control of them. The Chairman expects that all parties to whom a request of this kind is addressed will co-operate with the Inquiry and will provide all relevant material without the need for him to exercise his powers of compulsion of documents or

evidence under section 21 of the Act. However, the Chairman will consider exercising those powers if the response to such or any later request is, for example, refused, or incomplete, or not provided by the stated deadline.

10. PODs, including legal representatives, should provide documents requested by the Chairman, together with any other documents they consider to be relevant to the Inquiry's Terms of Reference, without delay and within the time limits specified by the Inquiry. PODs are required to undertake comprehensive, thorough and rigorous searches in response to a request for documents.
11. The Inquiry expects that once documents have been identified every care is taken to ensure that all such documents are preserved in their original form including the associated metadata.
12. The following requirements shall apply in relation to the production of documents:
 - (a) All documents provided to the Inquiry must be in original form or if not available, in the best available copies.
 - (b) All documents should be accompanied by an inventory listing them and signed by or under the authority of the person providing them.
 - (c) All documents should be provided electronically where possible. Electronic documents should be provided either in their native format, for example Microsoft Word, Microsoft Excel, MSG email files/PST email containers, or by converting any proprietary file formats to Adobe PDF, with all metadata (as defined in paragraph 5(7) of Criminal Procedure Rules ("CPR") Practice Direction 31B) preserved as far as possible.
 - (d) Where hard copy documentation is provided these should be digitised beforehand to multipage PDF format. If the document is mainly text based, this should be scanned in black and white and should only be scanned in colour where it is critical to the legibility of the document. Scanning settings should be set to 300 dpi (number of dots per inch as scanned) for both black and white and colour documents.
 - (e) Except where legal professional privilege or another legal bar to disclosure to the Inquiry is asserted (with detailed reasons being provided) in respect of any document or part of document, all documents must be provided to the Inquiry

in unredacted form. Production must not be delayed on grounds that redactions are sought by the POD.

13. A person will not be required to give, produce or provide any evidence or document if:
- (i) he could not be required to do so if the proceedings of the inquiry were civil proceedings in a court in Gibraltar; or (ii) the requirement would be incompatible with retained EU legislation. Claims to privilege or public interest immunity in respect of evidence to the Inquiry will be handled as follows:
 - (a) If, and to the extent that the POD wishes to rely on legal professional privilege or another legal rule (including public interest immunity) as a reason for not producing a document, part document or part of a document, the POD must identify the document in question and specify the reason in writing to the Solicitor to the Inquiry, together with a summary setting out why the POD believes that the privilege or other legal rule prohibiting disclosure to the Inquiry applies.
 - (b) Guidance on the applicable tests and definitions of legal professional privilege are to be found in the Civil Procedure Rules (“CPR”) para 31.3. Before asserting legal professional privilege, PODs should consider carefully whether they should waive that privilege to assist the Inquiry in its work in the public interest.
 - (c) The rules of law under which evidence or documents are permitted or required to be withheld on grounds of public interest immunity apply in relation to the Inquiry as they apply in relation to civil proceedings in a court in Gibraltar. For the avoidance of doubt, the Inquiry will follow the procedure in CPR to the extent that is practicable. Applications should only be made without notice where necessary.
 - (d) Applications on the ground of public interest immunity will be decided in accordance with the following test:
 - i. What is the material that is sought to be withheld? This must be considered in detail.
 - ii. Is the material such as may weaken a party’s case or strengthen that of his opponent?
 - iii. Is there a real or serious risk of prejudice to an important public interest

if full disclosure of the material is ordered?

- iv. If the answer to (ii) or (iii) is yes, can the interests of the party not asserting the privilege be protected without disclosure or disclosure be ordered in such a way as to give adequate protection to the public interests in question and also afford adequate protection to those interests? This question requires consideration, with specific reference to the material sought to be withheld and the facts of the case and the issues as disclosed, whether it is possible for formal admissions to be made, or whether disclosure short of full disclosure may be ordered. This may be done in appropriate cases by the preparation of summaries (or ‘gists’), extracts of evidence, or the provision of documents in redacted form and approved by the tribunal.
- v. Do the measures proposed in answer to (iv) represent the minimum derogation necessary to protect the public interest in question?
- vi. If limited disclosure pursuant to (iv) or (v) is ordered, may its effect be to render the trial process viewed as a whole unfair?
- vii. These matters relating to disclosure and the assertion of public interest immunity must be kept under review throughout the trial process.

- (e) The Chairman will address issues of privilege and immunity as and when they are raised, whether at the time of disclosure to the Inquiry, dissemination to other parties or at or prior to the main hearing. Core Participants are encouraged to raise any issue of privilege or immunity at the earliest possible stage.

- 14. The Inquiry, being a public inquiry, seeks to be as transparent as possible. This means that it expects to disclose material to core participants and may (regardless of disclosure to any person) seek to use such material as part of its body of documentary evidence to which reference may be made by its experts or in its reports and as such may form part of the Inquiry record, including being published on the Inquiry website.
- 15. The Inquiry will work on the assumption that any material in its possession may be disclosed or used in the manner set out above. Should a POD seek to object to disclosure or use by the Inquiry, then it should identify its objection in full by reference to specific documents or categories of documents and support it by legal submissions in any covering letter accompanying the material, explaining why this course should not be followed in the specific circumstances.

PART B: REDACTION OF DOCUMENTS

16. It is important that the Inquiry sees all documents it obtains from participants, witnesses and other sources which are relevant to its work in complete form. However, there may be legal reasons why the Inquiry may need to apply redactions to documents before they are disclosed to Core Participants and ultimately to the general public via a public hearing or a report.
17. This Protocol sets out the approach that will be taken by the Inquiry to the redaction of documents. Its purpose is to ensure that PODs understand how the Inquiry will deal with documents it intends to publish.
18. It is for the Inquiry to determine the relevance of any particular document and for the Inquiry to determine whether a redaction should be applied, whether or not that redaction has been requested by a POD.
19. Following the receipt of witness evidence and/or disclosure, and once the Inquiry has decided which documents it intends to disclose to CPs with a view to putting them in evidence, it will notify the POD, so that the POD may indicate which part or parts of the document (if any) it seeks to have redacted. The POD should make any such indication within 14 days of receipt of notification from the Inquiry, in writing to the Solicitor to the Inquiry. If the POD is a Core Participant, save where prior leave is granted by the Chairman, the indication should be copied to all other Core Participants. Reasons must be given for each proposed redaction, and the POD should indicate whether the redaction is sought:
- (a) in order to prevent the information becoming accessible to the public; or
 - (b) in order to prevent the information becoming accessible to other Core Participants as well as the public.
20. If any Core Participant objects to a proposed redaction, it should, within 7 days of receipt of an indication in accordance with paragraph 19 above, state its objection with reasons in writing to the Solicitor to the Inquiry (copied to all other Core Participants).

Reasons for redaction

21. It is the Chairman's intention that members of the public have access to a record of evidence produced at the Inquiry and will publish documents as soon as is practicable at or following the relevant hearing. The Inquiry expects PODs to adopt a measured

approach when seeking redactions and will only redact information where the case for this is properly made out, recognising the need for the Chairman to ensure as far as possible that members of the public are able to view a record of evidence and documents provided to the Inquiry.

22. There are a number of reasons why documents or parts of documents provided to the Inquiry may be withheld from wider dissemination and/or redacted prior to disclosure to Core Participants and/or inclusion in evidence. In exceptional circumstances, the Inquiry may also hear evidence in private. Those reasons include the following:

- (a) the information in question is sensitive and irrelevant to the Inquiry's work;
- (b) the information in question constitutes personal data within the meaning of data protection legislation, further disclosure of which is prohibited by that legislation;
- (c) the information in question would cause harm or damage to the public interest, such that it is contended that the Chairman should impose restrictions on its disclosure or publication, including where conditions as to confidentiality applied to the circumstances in which the information was obtained, or circumstances where publication of information would lead to:
 - i. death or injury;
 - ii. damage to national security or international relations;
 - iii. damage to the economic interests of Gibraltar;
 - iv. damage caused by disclosure of commercially sensitive information;
 - v. harm or damage to the public interest on grounds of public interest immunity; and
 - vi. prejudice to the course or outcome of any ongoing criminal investigation or prosecution into matters relating to the information proposed for release.

Determination of requests for redaction

23. The Chairman will consider all requests for redaction carefully.

24. If the Chairman determines that it is appropriate to redact any document, it will be available for disclosure to CPs or use in evidence (as the case may be) in redacted form

only and will be published in that form on the Inquiry's website following the hearing.

25. If the Chairman does not consider that grounds for redaction have been made out, the Inquiry will notify the POD before the document in question is disclosed to the CPs (or, in the case of the Documents, put into evidence).

Redaction of Personal Data

26. The Inquiry will review all documents before disclosing them to other parties, calling them into evidence and/or publishing them on the Inquiry's website, to ensure that it complies with its own obligations under the Gibraltar General Data Protection Regulation and the Data Protection Act 2004 in respect of personal data. The Inquiry's approach to redaction of personal data is governed by the relevance of that data to the Inquiry and the necessity of its disclosure.
27. PODs are expected to ensure that all personal data is identified for the purposes of redaction. If members of the Inquiry team identify any personal data that has not been identified by the POD they will redact it without further notice unless the Chairman considers that it is of relevance and necessary for the purposes of the Inquiry.
28. The Inquiry will normally treat as personal information:
- (a) home addresses;
 - (b) private email addresses;
 - (c) private telephone numbers;
 - (d) identification card numbers;
 - (e) an Internet Protocol (IP) address;
 - (f) dates of birth;
 - (g) medical information (including information about medical treatment); and
 - (h) personal financial information.

Such information will be redacted without the need for any restriction order or order for anonymity.

29. Anyone who contends that a document produced or provided to the Inquiry should be anonymised or redacted otherwise than in accordance with the preceding paragraphs of this Protocol may make an application to the Chairman in writing. Any such application must include a copy of the document in question marked up with the proposed redaction and must contain a brief statement of the grounds on which it is made.

PART C: RECORDS MANAGEMENT

30. Business information should be held in digital format. Significant emails must not be stored solely in personal mailboxes without a backup.
31. It is important that business information is captured so that important records survive which capture the following:
- (a) A decision and how that decision was reached (e.g. minutes of meetings, correspondence prior to and after the meeting that result in a decision being made and/or an action taken forward).
 - (b) How procedures work (e.g. work plans, standard operating procedures and changes to them).
 - (c) Contractual/purchasing arrangements (e.g. service delivery contracts, purchase orders).
32. Additionally large numbers of evidential documents have been received from contributing organisations and individuals. These will be managed so that information is available only to those who need to access and share it, allowing them to work securely and effectively.

Sharing and handling of data

33. The Inquiry has many stakeholders, and it will sometimes be necessary to share data with them. The Inquiry's stakeholders are the Core Participants, the other persons or entities who may be identified as such in a Privacy Notice and such other persons as

the Chairman may consider appropriate in discharging his Commission. Data will be shared securely in line with data protection legislation.

34. The Inquiry is registered with the Information Commissioner's Office as a data controller because the Inquiry decides how both personal and sensitive personal data are processed.

Requests under the Freedom of Information Act

35. The Inquiry is not a public authority for the purposes of the Freedom of Information Act (FoI) 2018. Therefore, while the Inquiry is in the course of its work and before its conclusion, the Act does not strictly apply and any requests for information made under the Act will not be considered. In accordance with section 18(4) of the Inquiries Act 2024, section 12(4) of the Freedom of Information Act 2018 does not apply in relation to information contained in documents that, in pursuance of rules under section 33(1)(b) of the Inquiries Act 2024, have been passed to and are held by a public authority.
36. However, to balance this approach the Inquiry will operate on a presumption of openness and transparency. As much information as possible will be provided publicly, mainly through the Inquiry's website.

Security of information

37. The security of information that the Inquiry gathers, holds and has access to is fundamental to its integrity. It will also assist in delivering the success of the Inquiry. Therefore, information must be protected and kept secure.
38. As well as document handling and clear desk policies in the office and off-site, the Inquiry team must observe the need for security when working from home, by not removing material from the office environment, when working on public transport and in discussions about the work of the Inquiry with family, friends, and other third parties including officials from government departments.
39. As far as possible, digital documents will not be printed; where it is necessary to print, paper copies will be placed in shredding cabinets as soon as they are no longer needed and the clear desk policy will be adhered to at all times i.e. no papers left unattended on desks, and all papers cleared away at the end of day and either locked away or

shredded.

40. Members of the Inquiry team will conduct all business of the Inquiry on secure devices.
41. Members of the Inquiry team must not email any information relating to the Inquiry to any personal devices or email accounts.

Retention and disposal of emails

42. Significant dialogue and decision making now often takes place by email. Storing such emails in personal mailboxes means they cannot be shared appropriately with other colleagues.
43. Any substantive discussions/decisions should be recorded via email or documents in accordance with retention of the decision-making process for key outcomes. The Inquiry also uses other means of communication to maintain communication if the primary system is offline for any reason, and for purely administrative issues. No business decisions are to be recorded in this application.
44. Emails need to be managed, so that:
- (a) substantive emails should be saved appropriately;
 - (b) retention schedules will be applied to all substantive emails;
 - (c) ephemeral emails which will not become a matter of record should be deleted as soon as possible, and personal email accounts will not be retained.
45. At the end of the retention period, records will either be destroyed or will be stored by the Secretary to the Inquiry in a suitable location, to be designated at his discretion. Before transfer, the records, regardless of format, will be reviewed and any FoI exemptions identified and records appropriately marked or redacted.

Roles and responsibilities

46. The Chairman of the Inquiry has ultimate responsibility for the Inquiry's records and must ensure that appropriate functions, policies and procedures are in place to support the Inquiry during its lifetime and to produce a permanent record once the final report has been published.

47. All members of the Inquiry team must ensure that comprehensive records are kept of the Inquiry's activities.

Compliance

48. This policy applies to all members of the Inquiry team, consultants and contractors. Third party suppliers and anyone providing a service on the Inquiry's behalf should also be aware of the content of the policy.

Made by the Chairman on [Date]

Part 6 Protocol relating to the livestreaming of Inquiry proceedings

1. This Protocol sets out the conditions under which livestreaming is to be permitted and explains how the livestreaming of the Inquiry will operate on a day-to-day basis.
2. The Chairman will decide, in his discretion, whether the Inquiry should be livestreamed. Pursuant to section 18(2) of the Inquiries Act 2024, the Chairman expressly has a discretion to request or permit the broadcasting of proceedings subject to section 18(3).
3. Even if the Chairman decides that the Inquiry should be livestreamed, he may decide not to livestream any section or sections of the proceedings pursuant to the provisions in paragraphs 8 to 10 below or any prohibition by notice under section 19 of the Inquiries Act 2024.
4. If the Chairman decides that all or any part of the Inquiry proceedings may be livestreamed, it will be livestreamed on the Gibraltar Broadcasting Corporation ("GBC"), should it agree to do so, on its website and on Radio Gibraltar Plus to any member of the public who wishes to follow the proceedings.
5. Insofar as possible, the camera will be operated by a single person and shall remain in a fixed position throughout, so as to minimise disruption to the proceedings. In the case of technical malfunction of the livestream or equipment, the Chairman is unlikely to adjourn the proceedings.
6. After the conclusion of each day of the Main Inquiry Hearing, any livestream for each day

will be uploaded on the GBC website, but only once the Inquiry is satisfied that the recording does not include any evidence that is subject to a restriction order or restriction notice. The Solicitor to the Inquiry is to confirm this to GBC (as soon as practicable after the conclusion of each hearing day) by email to the CEO at GBC.

7. In addition to any livestreaming of evidence, at the end of each hearing day a transcript of the evidence heard will be posted on the Inquiry's website, if and to the extent that the Inquiry's proceedings are transcribed. Any transcript will be edited to remove reference to evidence that is subject to a restriction order, and which was not broadcast on the livestream in accordance with the provisions of an order of the Chairman.

Restrictions on livestreaming

8. Exclusion of the public

8.1 In circumstances where the Chairman exercises his power to exclude the public from the Inquiry hearing or where broadcasting has been prohibited in accordance with a section 19 notice the livestream shall be suspended.

9. Advance applications to restrict livestreaming

9.1 The Chairman may rule in advance of the Inquiry hearing, either of his own initiative or following consideration of an application by the legal representative of a Core Participant ("CP") or by or on behalf of a witness, that a section of the proceedings will not be livestreamed. Any such ruling shall be communicated in writing to GBC by the Solicitor to the Inquiry.

9.2 Any CP or witness should take a measured approach to any applications that a section of the proceedings should not be livestreamed and carefully particularise any application so that it specifies precisely what information it is submitted should not be livestreamed. The guiding principle is that the livestream should be paused for the shortest time possible to protect the information in issue. As a starting point, grounds for an application include that:

- a. A witness giving evidence is a vulnerable witness, following determination of an application made under the Protocol for Vulnerable Witnesses and Restrictions on Public Access;
- b. Evidence is the subject of a restriction order made by the Chairman pursuant to the

Protocol for Receipt and Handling of Documents, Redactions and Records Management or by the Government under the Act; or

c. It is otherwise in the interests of justice that a section of the proceedings not be livestreamed.

9.3 Any application by a CP or witness should be made as soon as possible, and in any event before **[insert date]**. The Inquiry will only consider applications made after this date if the Chairman is satisfied there is a good reason that the CP or witness could not have made the application prior to that date.

9.4 If the Chairman hears evidence from a witness for whom special measures are made under a Protocol for Vulnerable Witnesses and Restrictions on Public Access, it may still be appropriate to livestream the witness's evidence, but make changes to how the evidence is broadcast. For example, not showing the witness on camera and/or only broadcasting the audio of the evidence. In any event, steps must be taken to ensure the witness is protected, in so far as the Chairman is satisfied that this is necessary and appropriate.

10. Retrospective rulings on livestreaming

10.1 There will be a 10-minute delay in the broadcast of the livestream. The purpose of the delay will be to ensure that nothing is broadcast that is (a) subject to a restriction order and therefore should not be made public, or (b) contains information which requires a restriction order to be made to protect the information from being made public. This may include, for example, information that is said to be operationally sensitive or that is otherwise sensitive and irrelevant to the Inquiry's List of Issues.

10.2 Any media representatives or members of the public who attend the hearing in person will not be permitted to liveblog, Tweet or otherwise comment publicly in real time from the hearing room. This is to ensure that nothing is broadcast by a member of the media or public who is present in the hearing room that may be subject to a restriction order. Any breach which results in the broadcast or publication of information that is subject to a restriction order may result in enforcement proceedings.

10.3 Rather, any media representatives or members of the public who wish to liveblog, Tweet or comment on the Inquiry's evidence should do so by following the livestream on GBC's website, which will be subject to the ten-minute delay, or during breaks in the hearing.

10.4 The Chairman may rule, either of his own initiative or on application by any legal representative of a core participant, that a section of the hearing which has just taken place will not be livestreamed. Any such application should be made immediately to the Chairman (orally), and necessarily before the conclusion of the ten-minute delay so that the livestream can be paused before the information in question is transmitted. As a starting point, grounds for an application include that:

- a. There is a risk to the welfare of any witness; or
- b. Information that is the subject of a restriction order has inadvertently been referenced by a witness or legal representative; or
- c. Information has been revealed which should be made the subject of a restriction order.

10.5 Should any core participant or witness make such an application, it is envisaged that the following steps will be taken:

- a. Counsel to the Inquiry (“CTI”) will invite the Chairman to pause the livestream of the evidence whilst the issue is resolved. If necessary, the Chairman may rise but it is anticipated that stopping the livestream whilst the issue is addressed is likely to be sufficient.
- b. The livestream will be stopped immediately, and no further evidence will be heard until the issue that has arisen is resolved.
- c. No one present in the hearing room will be permitted to report, liveblog, Tweet or otherwise comment on the evidence heard which has not been broadcast.
- d. A member of the Inquiry team will check, and GBC will confirm, that the livestream has stopped.
- e. If necessary and subject to the nature of the application and the discretion of the Chairman, closed submissions may be made whilst the livestream is switched off. The purpose of the submissions would be to enable the Chairman to decide whether to make a restriction order. The submissions themselves, if required, would also be subject to any restriction order.

- f. Once the issue has been resolved the livestream will resume.
- g. To the extent that it is necessary, any legal submissions that can be made in open will only be made once the livestream is restored so that all those following on the livestream can understand the reason for the delay (as far as it can be broadcast).
- h. If necessary, the Chairman will be invited to explain the reason, as far as it is possible to do so, for the break in the proceedings.
- i. Everyone present, including the media and public, will be reminded about the restriction order(s) in force and/or a new restriction order will be made to prohibit disclosure of the information which gave rise to the pause in proceedings.

Use of livestreaming content

- 11. There shall be no recording or onward transmission of the livestream by third parties, other than by the media for the purpose of public reporting of the Inquiry proceedings.
- 12. Any media reports which include extracts of the livestream shall be fair and not distort, misrepresent or take the extracts out of context.
- 13. GBC must seek the Chairman's prior written approval before licensing the use of any footage of the Inquiry to any third parties.

Made by the Chairman on [Date]

Part 7

Protocol relating to the use and processing of personal data

Privacy Notice

- 1. The Inquiry is an independent public inquiry exercising statutory functions in the public interest, established under the Inquiries Act 2024 (“**the Act**”). The Inquiry is the data controller for the purposes of the Act.
- 2. The purpose of this Privacy Notice is to set out how the Inquiry will use personal data; who it may be shared with; and the data subject's rights.
- 3. It is made under Articles 13 and/or 14 and Article 30 of the Gibraltar General Data Protection

Regulation (GDPR) and Data Protection Act 2004 (DPA 2004).

WHAT DATA THE INQUIRY NEEDS TO COLLECT, AND THE LEGAL BASIS FOR PROCESSING IT

Purposes of data collection

4. The purposes for which the Inquiry collects and processes personal data are the effective conduct of the public inquiry into the matters which it is required to investigate under its terms of reference and discharging the Inquiry's duties pursuant to the Act.
5. The Inquiry is investigating the matters set out in its Terms of Reference set out in the Commission of Inquiry dated [insert date of Commission] and does so by means of a legal process within the framework of the Act. The Inquiry must process personal information for the purposes of its investigations and to enable it to carry out its work, including the conduct of hearings. Such hearings, except in exceptional circumstances and/or as mandated by law, will be held in public and so evidence (including witnesses' personal data) referred to at hearings will become publicly available.
6. Personal information (as defined in Article 4 of the GDPR) is used by the Inquiry in a number of ways – for example, to gather evidence as part of the Inquiry's investigation, to facilitate access to the Inquiry, to enable witnesses to give evidence and to communicate with you and keep you updated on the progress of the Inquiry. Personal information may also be contained in the Report of the Inquiry, which the Chairman is to provide to the Government pursuant to Legal Notice [insert number].
7. Personal information may also be used by the Inquiry to comply with the law and with contracts that the Inquiry has entered into.

Data collected

8. Personal data is collected, recorded and organised by the Inquiry. Typically, data will be requested by the Solicitor to the Inquiry, in the form of a letter and voluntarily disclosed by relevant individuals or organisations or by way of notice for the production of evidence under section 21 of the Act.
9. Personal data processed by the Inquiry can therefore comprise the personal data of:
 - Members of the public;
 - Core Participants, within the meaning of the Inquiry Rules and any Core Participants Policy;
 - Other witnesses providing evidence to the Inquiry who are not Core Participants;
 - Contracted parties to the Inquiry.
10. The following is a non-exhaustive list of categories of personal data that will be processed in relation to the Inquiry's core function:

- Personal data – typically biographical data such as name, date of birth, personal description, contact details, images and voice recordings.
 - Special category data – this will typically include data relating to health, data relating to race/ethnicity, religious beliefs and Trade Union membership. Some special category data may relate to children. In this regard, see any Appropriate Policy Document.
 - Personal data relating to criminal convictions and offences – some data in relation to criminal convictions is processed, subject to strict controls. In this regard, see any Appropriate Policy Document.
11. The Inquiry keeps data secure and only shares it with those who are required to see it as part of the legal process of the Inquiry. All personal information the Inquiry receives is handled fairly and lawfully in accordance with data protection legislation.
12. Typically, personal data is held in digital format in IT systems with sufficient security standards. The details of the security arrangements are not set out in this Notice to avoid compromising the effectiveness of those arrangements.

Legal basis

Non-special category personal data

13. For data which does not fall within the definition of special category data (see below), the Inquiry will rely on the legal basis described below for processing.
14. When processing personal data, the Inquiry will, at all times, consider whether the processing or disclosure of such data is necessary for the Inquiry proceedings and functioning:
- a. *Core function of the Inquiry*
 - The primary legal basis relied on for lawful processing by the Inquiry of personal data is Article 6(1)(e) of the GDPR, processing that is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. The Chairman has official authority to perform the core function of the Inquiry in order to investigate the matters falling within the Inquiry's Terms of Reference (pursuant to sections 6 and 7 of the Act).
 - In respect of material provided to the Inquiry (in particular, by witnesses) where the data subject has given consent to the processing, Article 6(a) of the GDPR will also apply.
 - b. *Contracts*
 - For providers of services to the Inquiry, the primary legal basis for processing personal data will be Article 6(1)(b) (that it is necessary for the performance of

a contract to which the data subject is a party).

Special category personal data

15. Special category, or sensitive, data is personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic or biometric data (where used for identification purposes), data concerning health or data concerning an individual's sex life or sexual orientation.
16. Processing by the Inquiry potentially extends to all types of special category personal data, but most typically will involve information relating to health and political opinions.
17. In addition to the legal bases for processing personal data generally, outlined above, the legal bases for processing special category data pursuant to Article 9 of the GDPR are:
 - That processing is necessary for reasons of substantial public interest (Article 9(2)(g) of the GDPR, read with Schedule 1, paragraph 6 of the DPA 2004), namely the exercise of a function conferred by an enactment/rule of law (the Act), to the extent that it is necessary; and
 - That the explicit consent of the data subject (where applicable) has been obtained (Article 9(2)(a) of the GDPR).

Criminal conviction personal data

18. Where data relating to criminal convictions/offences is concerned, the lawful basis for processing is article 10 of the GDPR and section 12(5) and Schedule 1, paragraph 6 of the DPA 2004. Namely, data will be processed where it is necessary for the exercise of a function conferred on the Act.

WHO WE SHARE YOUR DATA WITH AND WHY

19. As the Inquiry is publicly accessible, personal data may be shared with anyone following the proceedings, including the press, when given in evidence. There are clear processes, including robust redactions processes, in place which govern the protection of personal data. This is to ensure that - save where consent is provided by the data subject - only data necessary for the Inquiry's performance of its functions will be disclosed outside the Inquiry or to those instructed by the Inquiry.
20. During the course of undertaking the statutory duties of the Inquiry, data may be shared by the Inquiry with the following main groups:
 - The Chairman
 - Counsel and Solicitors to the Inquiry
 - Recognised legal representatives of individuals, corporate bodies and Government bodies and agencies designated as Core Participants in the Inquiry

- Core Participants in the Inquiry
 - Witnesses giving oral evidence at the Inquiry
 - Expert Witnesses appointed by the Inquiry
 - Assessors appointed by the Inquiry
 - The HM Government of Gibraltar’s Information Technology and Logistics Department, through their provision of IT services
 - Third party data processors (such as providers of IT infrastructure or services and the operators of the Inquiry website)
 - The public via livestreaming of the Inquiry proceedings, the Inquiry website or via published reports
21. The majority of personal data submitted to the Inquiry is transferred to IT systems operated by third party Data Processors for the purposes of storing, reviewing and analysing documents and information.
22. The Inquiry has appropriate measures in place with its data processors, which means they cannot do anything with personal information unless the Inquiry has instructed them to do it. They will not share personal information with any organisation apart from the Inquiry, or as directed by the Inquiry. They will hold data securely and retain it for the period the Inquiry requires.
23. At the conclusion of the Inquiry, data that is to be retained as part of the historic record will be stored by the Secretary to the Inquiry in a suitable location to be designated in accordance with the provisions of the Act in that respect, although any personal data included will continue to be protected.
24. We may also share data where we are under a legal obligation to do so, or where it is necessary to assist with a criminal investigation.

How long will the Inquiry keep your data for?

25. Personal data will be held by the Inquiry until the conclusion of the Inquiry. At the end of the Inquiry, some of the personal data held by the Inquiry will – where it is considered to form part of the historic record – be transferred by the Secretary to the Inquiry for the purposes of indefinite retention of Inquiry records to a suitable location to be designated in accordance with the provisions of the Act in that respect.
26. Personal data that is not required for archiving purposes will be destroyed.

Data subject’s rights

27. A data subject’s rights are as follows:
- to request information about how the data subject’s personal data is processed, and to request a copy of that personal data.
 - to request that any inaccuracies in the data subject’s personal data are rectified without

delay.

- to request that any incomplete personal data is completed, including by means of a supplementary statement.
- to request that the data subject's personal data is erased if there is no longer a justification for them to be processed.
- in certain circumstances (for example, where accuracy is contested) to request that the processing of the data subject's personal data is restricted.
- Where we are relying on the data subject's consent, the data subject has the right to withdraw consent to the processing of personal data at any time.
- If we are not relying on data subject's consent, data subject may have the right to object to the processing of personal data. Any objections will be considered in the context of the Inquiry's statutory duties and the necessity of processing personal data for that purpose.
- Where we are relying on data subject's consent, or a contract with the data subject, the data subject the right to request a copy of any personal data that the data subject has provided, and for this to be provided in a structured, commonly used and machine-readable format.

28. The rights and obligations set out in this Notice may be subject to exemptions or limitations, to the extent authorised by the GDPR and the DPA 2004 (including paragraph 10 of Part 2, Schedule 2), to be applied on a case-by-case basis.

International transfers

29. Personal data may be transferred and stored securely outside of this jurisdiction.

30. Where that is the case, it will be subject to equivalent legal protection through the use of Model Contract Clauses.

Complaints

31. If a data subject considers that his/her personal data has been misused or mishandled, the data subject may make a complaint to the Gibraltar Information Commissioner, who is an independent regulator. The Gibraltar Information Commissioner can be contacted at:

Gibraltar Regulatory Authority
2nd floor, Eurotowers 4
1 Europort Road
Gibraltar

Phone: [\(+350\) 20074636](tel:+35020074636)

Email: info@gra.gi

32. Any complaint to the Gibraltar Information Commissioner is without prejudice to the data subject's right to seek redress through the courts.

Contact details

33. The data controller determines the purposes and means of processing personal data.
34. The Data Protection Officer provides independent advice and monitoring of the Inquiry's use of personal information.
35. The Inquiry is the lead data controller for personal data. The HM Government of Gibraltar's Information Technology and Logistics Department acts as a joint data controller through provision of IT infrastructure services.
36. The Inquiry's Data Protection Officer is the Secretary to the Inquiry. The Data Protection Officer can be contacted at:[insert email address]

Review of this notice

37. This notice will be regularly reviewed and may be subject to revision. Please visit our website to check for any updates.

Made by the Chairman on [insert date]

Part 8

Protocol relating to the protection of special category and criminal convictions personal data.

Appropriate Policy Document

1. This is the "appropriate policy document" for the Inquiry that sets out how the Inquiry will protect special category and criminal convictions personal data.
2. It meets the requirement at paragraph 5 of Schedule 1 to the Data Protection Act 2004 (**DPA 2004**) that an appropriate policy document be in place where the processing of special category personal data is necessary for reasons of substantial public interest. The specific conditions under which data may be processed for reasons of substantial public interest are set out at paragraphs 6 to 28 of Schedule 1 to the DPA 2004.

Purposes of data collection

3. The purposes for which the Inquiry collects and processes personal data are the effective conduct of the public inquiry into the matters it is required to investigate under its terms of reference and discharging the Inquiry's duties pursuant to the Inquiries Act 2024 (**the Act**).

4. The Inquiry is investigating the matters set out in its Terms of Reference set out in the Commission of Inquiry dated [insert date] and does so by means of a legal process within the framework of the Act. The Inquiry must process personal information for the purposes of its investigations and to enable it to carry out its work, including the conduct of hearings. Such hearings, except in exceptional circumstances, will be held in public and so evidence (including witnesses' personal data) referred to at hearings will become publicly available.
5. Personal information is used by the Inquiry in a number of ways – for example, to gather evidence as part of the Inquiry's investigation, to facilitate access to the Inquiry, to enable witnesses to give evidence, to communicate with individuals to keep them updated on the progress of the Inquiry, and to manage Inquiry staff. Personal information may also be contained in the Report of the Inquiry.
6. Personal information may also be used by the Inquiry to comply with the law and with contracts that the Inquiry has entered into.

Procedures for securing compliance

7. Article 5 of the Gibraltar General Data Protection Regulation sets out the data protection principles. These are the Inquiry's procedures for ensuring that the Inquiry complies with them.

Principle 1

8. Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject. The Inquiry will:
 - ensure that personal data is only processed where a lawful basis applies, and where processing is otherwise lawful;
 - only process personal data fairly, and will ensure that data subjects are not misled about the purposes of any processing; and
 - ensure the transparency of processing, including via the information provided in the privacy notice published on the Inquiry website.

Principle 2

9. Personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes. The Inquiry will:
 - only collect personal data for specified, explicit and legitimate purposes, and will inform data subjects what those purposes are in a published privacy notice; and
 - not use personal data for purposes that are incompatible with the purposes for which

it was collected (unless doing so is permitted by the relevant legislation).

Principle 3

10. Personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which it is processed.
11. The Inquiry will only collect and/or disclose the minimum personal data that it needs for the purpose for which it is collected and/or disclosed in accordance with the Inquiry's Protocol for Receipt and Handling of Documents, Redaction and Records Management. The Inquiry will ensure that the data it collects is adequate and relevant.

Principle 4

12. The Inquiry will ensure that personal data is accurate and kept up to date where necessary. It will take particular care to do this where its use of the personal data has a significant impact on individuals.

Principle 5

13. Personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data is processed.
14. The Inquiry will only keep personal data in identifiable form until the conclusion of the Inquiry. At the end of the Inquiry, the Secretary to the Inquiry will transfer and store some of the personal data for the purposes of retention of the Inquiry records. Personal data that is not required for archiving purposes will be destroyed.

Principle 6

15. Personal data shall be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.
16. The Inquiry will ensure that personal data is shared only with those who are required to see it as part of the legal process of the Inquiry (which, as part of the Inquiry's duties under the Act, may include the public). The Inquiry will, at all times, consider whether the processing or disclosure of such data is necessary for its proceedings and functioning.
17. The Inquiry will ensure that appropriate organisational and technical measures are in place to protect personal data. These include robust redactions processes that govern the protection of personal data. These processes ensure that – save where consent is provided

by the data subject – only personal data necessary for the Inquiry’s performance of its functions will be disclosed outside the Inquiry or to those instructed by the Inquiry.

18. The Inquiry’s Protocol for Receipt and Handling of Documents, Redaction and Records Management sets out how documents will be handled by the Inquiry, including measures on redaction, records management and security.

Accountability principle

19. The controller shall be responsible for, and be able to demonstrate compliance with, these principles.
20. The Secretary to the Inquiry is the Senior Information Risk Owner for the Inquiry who is responsible for ensuring that the Inquiry is compliant with these principles.
21. The Inquiry will:
- ensure that records are kept of all personal data processing activities, and that these are provided to the Information Commissioner on request;
 - carry out a Data Protection Impact Assessment for any high-risk personal data processing, and consult the Information Commissioner if appropriate;
 - appoint a Data Protection Officer to provide independent advice and monitoring of the Inquiry’s personal data handling, and ensure that this person has access to the Chairman of the Inquiry; and
 - have in place internal processes to ensure that personal data is only collected, used or handled in a way that is compliant with data protection law.

Data controller’s policies as regards retention and erasure of personal data

22. The Inquiry will ensure, where special category or criminal convictions personal data is processed, that:
- there is a record of that processing, and that that record will set out, where possible, the envisaged time limits for erasure of the different categories of data; and
 - where it no longer requires special category or criminal convictions personal data for the purpose for which it was collected, it will delete it or render it permanently anonymous; and
 - data subjects receive (via the privacy notice) full privacy information about how their data will be handled, and that this will include the period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period.

Further information

The Inquiry is a data controller. The Inquiry's Data Protection Officer is [insert name]. The Data Protection Officer can be contacted at:[insert email address].

Made by the Chairman on [date]