

Guardian News and Media response to the Undercover Policing Inquiry consultation on the approach to the administration of evidence hearings

About Guardian News and Media

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The Guardian has a strong commitment to freedom of speech and in 2018 it was honoured with the prestigious Freedom of Speech award by the International Association of Press Clubs. It was presented with the award for its groundbreaking stories on breaches of personal data and its dedication to reporting on global threats to the freedom of speech. The Guardian is also known for its globally acclaimed investigations.

Introduction

This response is submitted in response to the consultation document in respect of the Inquiry's approach to the administration of evidence hearings. GNM has confined its responses to three questions which we consider are most directly linked to the activities of journalists.

One - The Inquiry invites views on the how and when evidence should be posted on the inquiry website, as well as the timing their publication after the hearing.

GNM is grateful for the transcripts and documentation which to date have been uploaded on the Inquiry's website. GNM consider that the transcripts and documents provided to the Inquiry should continue to be uploaded. In addition, witness statements should be posted to the inquiry website as soon as practicably possible after a witness has given oral evidence and other documentation provided to the Inquiry that forms part of the hearing file should also be uploaded to the Inquiry website.

For the avoidance of doubt, GNM believes that all evidence, regardless of the extent of reference to it during the hearing, should be released onto the inquiry website (during or as soon as practicably possible after) the witness has given oral evidence. GNM believes this would enable the public to get a deeper understanding of the witness's evidence/ to understand the witness's evidence in the round, and also may enable the public to come forward with other evidence that may assist the Inquiry.

Two - The Inquiry is seeking views on how best to facilitate witnesses giving their evidence.

GNM recognises there are circumstances in which special measures will be employed in relation to the circumstances in which witnesses provide their oral evidence. Any derogations from open justice require the test of necessity and must be in the interests of justice¹. If the Inquiry decides the necessity test is satisfied then any derogation should, where justified, be no more than strictly necessary to achieve its purpose. Consistent with section 12(2) HRA 1998, any proposed

¹ "The court should ensure restrictions on access and reporting are the minimum necessary to enable justice to be done in that case", (para 50, *Ambrosiadou v Coward* [2011] EWCA Civ 409).

derogation requires prior notification to the media, "*if a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right to freedom of expression.*"

Five The Inquiry wants to hear views on live streaming from potential witnesses and those wishing to have access to the proceedings.

As is commonplace in recent Inquiries² GNM consider that the Inquiry should be live-streamed.

**Guardian News & Media
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² Leveson Inquiry, IICSA Inquiry, Grenfell Tower Inquiry