

CHAPTER 3: ORAL HEARINGS

1. Preliminary hearings

- 1.134** Prior to the commencement of its full oral hearings and during the course of its investigative stage, the Inquiry held four preliminary hearings and four directions hearings which were aimed variously at updating the legal teams for the Core Participants on the progress of the Inquiry (with its disclosure exercise, statement taking from witnesses and other process matters) and which dealt with a variety of procedural issues (such as protective measures for witnesses, the Attorney General's undertaking and restriction orders). The preliminary hearings were held on 9 March 2010, 12 November 2010, 11 May 2011 and 12 July 2011 and the directions hearings took place on 21 June 2010, 12 January 2011, 19 July 2012 and 18 December 2012. The last of these set the date for the commencement of the oral hearings.
- 1.135** A number of protocols, rulings and directions and restriction orders were made after these hearings and during the course of the oral hearings proper. These can be found on the Al-Sweady Public Inquiry website and a number of the most significant are collectively attached as Appendix 6 to this Report.

2. The oral evidence

The Schedule

- 1.136** The Inquiry began its oral hearings on 4 March 2013 and closed them on 16 April 2014. Initially, the Inquiry chose to sit a four-day week from Monday to Thursday. Daily sitting times had to be adjusted as the Inquiry progressed in order to accommodate time differences for witnesses who were heard from abroad and, in the latter stages of the oral evidence, the sitting day was extended to be able to fit more witnesses into the timetable. During this period, the Inquiry also sat on some Fridays and evenings in order to fit in with witness' availability.
- 1.137** The timetable for oral hearings was carefully scheduled to ensure that all gaps were filled and as little hearing time as possible was wasted. This required close liaison with Core Participant legal teams who in turn did everything they could to ensure that their witnesses turned up on the day scheduled. A small number of witnesses, some who were now residing overseas, were reluctant to give oral evidence at all. Although s.21 Notices were served on these witnesses, in order to compel them to attend a particular venue to give evidence on a particular date, the Notice has no reach overseas. In the event, not all of those upon whom s.21 Notices were served gave oral evidence to the Inquiry.
- 1.138** Core Participant legal teams were invited to provide Notices of Potential Criticisms 28 days in advance of that witness' appearance and warning letters were issued 14 days in advance. Notices of Questions were requested ten days in advance. Counsel to the Inquiry asked the bulk of the questions. Generally, witnesses were questioned for a whole day, half a day or a third of a day depending on the extent to which their evidence related to matters relevant to the Inquiry's terms of reference. Core Participant legal teams were permitted to question witnesses for approximately 20 minutes each, although this could be extended if the witness was important. These timings were adhered to as much as possible in order to ensure the timetable for oral hearings did not slip.

The hearings

- 1.139** The oral hearing timetable was carefully structured. Following five days of opening submissions, commencing in March 2013, the Inquiry moved immediately to hear evidence from 15 key Iraqi witnesses, all of whom attended in person at the Inquiry's hearing room in London. The evidence of these 15 witnesses took five weeks. This was followed by oral evidence from a further 40 Iraqi witnesses which was heard over a period of eight weeks, via video link from a studio set up for this purpose in Beirut. The successful completion of this part of the Inquiry's oral hearings was largely due to the careful preparations that the Inquiry Secretariat set in train six months' earlier and its very competent management of the complex logistics involved. However, the Inquiry was keen to use Beirut as its location for the taking of evidence by video link, because it was far more cost effective and straight forward than transporting the majority of the Iraqi witnesses to London. Furthermore, Lebanon is an Arabic speaking country with good transport links to Basra in Southern Iraq and the studio and other facilities provided to the Inquiry were both secure and reliable.
- 1.140** Following the end of this period, the Inquiry heard evidence from one further Iraqi, who had been employed by the British Army as a Locally Employed Civilian ("LEC") and was now re-settled in the UK, before proceeding to hear evidence from four expert witnesses: a pathologist, a firearms expert, a bloodstain pattern analyst and a forensic imagery analyst. The Inquiry then broke its oral evidence for a six week period over the summer of 2013.
- 1.141** The Inquiry began hearing oral evidence from military witnesses on 2 September 2013. This evidence continued for an almost uninterrupted period of 25 weeks, during which the Inquiry heard from 222 military witnesses. A number of these witnesses, including those who were still serving and based overseas or those who were no longer serving but who were living overseas, were heard via video-link set up from either military bases or commercial premises located overseas.
- 1.142** The Inquiry closed its oral hearings on 16 April 2014 with oral closing submissions from the Core Participants, having first invited written closing submissions to be submitted a week earlier. Counsel to the Inquiry took the decision that they would not provide any closing submissions, having set the scene for the evidence in a lengthy opening submission (which lasted four days) and thereafter having drawn out all the evidence through their questioning of witnesses. They felt it would not be appropriate to draw out findings of fact or conclusions, as they would inevitably have to, in any closing submissions. In addition, all Core Participants were given permission to lodge a further written round of closing submissions, limited to responsive points, which they all did by the end of April 2014.
- 1.143** In summary, the Inquiry sat for a total of 169 days over a period of 44 weeks. It heard oral evidence from a total of 282 witnesses: 56 Iraqi witnesses, 4 experts and 222 military witnesses. In addition, the witness statements of an additional 328 witnesses (47 Iraqi, 271 military and 10 miscellaneous) were also read by the Inquiry. Details of the various witnesses, both those who were called to give evidence and those whose evidence was read, are summarised and attached as Appendix 3 to this Report.