

Protocol between the Iraq Inquiry and Her Majesty's Government regarding Documents and Other Written and Electronic Information

This Protocol addresses:

- **the production, handling and protection of documents and other written and electronic information (“information”) supplied to the Iraq Inquiry (the “Inquiry”) by Her Majesty’s Government (“HMG”); and**
- **the procedures for release into the public domain of, or public reference to, such information.**

Aims

1. This Protocol is designed to ensure that:
 - (a) the public know how information will be provided to the Inquiry by HMG, and are aware of the procedure for the publication of, or public reference to, this information by the Inquiry;
 - (b) the Inquiry can have confidence in the completeness of information it receives from HMG;
 - (c) HMG can have confidence that the information it provides to the Inquiry is handled and protected appropriately and in accordance with the law.

Provision of Information

2. In establishing the Iraq Inquiry, the Prime Minister said in his statement of 15 June 2009 to the House of Commons:

“[it would be] an independent Privy Counsellor committee of inquiry which will consider the period from summer 2001, before military operations began in March 2003, and our subsequent involvement in Iraq right up to the end of July this year.

The committee of inquiry will have access to the fullest range of information, including secret information. In other words, its investigation can range across all papers, all documents and all

material. It can ask for any British document to be brought before it...

The inquiry will receive the full co-operation of the Government. It will have access to all Government papers..."

3. Having announced the Inquiry, the Prime Minister wrote to the Chair, Sir John Chilcot, on 17 June. In that letter, the Prime Minister wrote:

"I am fully committed to a thorough and independent inquiry, and guarantee the full cooperation of the Government. As Privy Counsellors, you will have unhindered access to government documents.

I have written to all relevant current and former Ministers to underline the importance of their full cooperation. And the Cabinet Secretary is writing to departments to underline the need for full transparency..."

4. In line with the direction in paragraphs 2 and 3 above and subject to the Inquiry's commitments (paragraph 6 below) being met, HMG commits to undertake comprehensive, thorough and rigorous searches to identify any information it holds which the Inquiry requests, consistent with its terms of reference.
5. All information identified during the search will be supplied to the Inquiry as soon as possible: no such information may be withheld, with the exception of information HMG holds which is covered by an existing duty of confidentiality HMG has to a third party which, despite the commitments made in paragraph 6 below, prevents disclosure to the Inquiry. In this event, HMG will urgently seek permission from such a third party to the sharing of its information with the Inquiry.
6. In response to this commitment by HMG, the Inquiry commits
 - (a) that its arrangements for, and the practice followed by its Secretariat, the Privy Counsellor members of the Inquiry Committee and any expert assessors the Inquiry engages, in relation to, the transmission, handling, storage, removal from secure offices and overall security of information will adhere to the relevant Government security rules and procedures covering all levels of security classification and any

specific procedures relating to the handling of individual documents which HMG identifies at the time the information is passed to the Inquiry or as soon after this as practicable;

- (b) that it will adhere to any commitments or understandings HMG has in place with foreign governments or international bodies in respect of the security and non-disclosure of information originating from that foreign government or international body;
- (c) that those who shall have access to any HMG information held by the Inquiry, including the Secretariat staff, the Privy Counsellor members of the Inquiry Committee and any expert assessors the Inquiry engages, will be appropriately security cleared, in line with Government rules and procedures for security clearance for access to classified information, including the rules for Privy Counsellors and the applicability of the Official Secrets Act;
- (d) that it will follow the procedures set out in paragraphs 7-13 below regarding the publication of information; and,
- (e) that it will file, record, store and retain both information passed to it, and any material it generates, in a manner consistent with Cabinet Office standards on filing, record keeping, storage and retention of official material in order for a complete record of the Inquiry to be returned to the Cabinet Office, where it will be treated in accordance with the usual statutory requirements affecting public records, on the Inquiry's closure.

Publication of Information

7. The Inquiry may release into the public domain, or make public reference to, information provided to it by HMG where the Inquiry and HMG have followed the procedures set out in paragraphs 8-13 below. These procedures are intended to avoid the release of any information the disclosure of which would, or would be likely to:

- (a) cause harm or damage to the public interest, guided by the normal and established principles under which the balance of public interest is determined on grounds of Public Interest Immunity in proceedings in England and Wales including, but not limited to,
- national security, defence interests or international relations;
 - the economic interests of the United Kingdom or of any part of the United Kingdom;
- (b) endanger the life of an individual or otherwise risk serious harm to an individual;
- (c) make public commercially sensitive information;
- (d) breach the principle of legal professional privilege (LPP);
- (e) prejudice, in the case of legal advice (following any voluntary waiver of LPP) rather than material facts, the position of HMG in relation to ongoing legal proceedings;
- (f) breach the rules of law which would apply in proceedings in England and Wales under the provisions of Section 17 of the Regulation of Investigatory Powers Act 2000;
- (g) breach the rules of law applicable to the disclosure of information by the Security Service, SIS or GCHQ, the third party rule governing non-disclosure of intelligence material, or other commitments or understandings governing the release of sensitive information;
- (h) breach the Data Protection Act 1998; or,
- (i) prejudice the course or outcome of any ongoing statutory or criminal inquiry into matters relating to the information proposed for release.

Agreeing Publication of Information

8. Where the Inquiry decides that any information provided to it by HMG, or reference to such information, constitutes relevant information which it wishes to include in its final report or at any other point in its proceedings, it shall first follow the procedure set out below for agreeing with HMG the form in which the information is made public or referred to publicly.
9. The Inquiry will notify the department, agency or service within HMG which is the originator of the information, or that was the recipient of the information if it originated from a third party outside HMG (the “lead government department”), what information it wishes to include in its final report, or otherwise release into the public domain, including by making public reference to it, and in what form (including any proposed redactions or alternative means of inclusion or release of the information).
10. The lead government department, following consultation with other government departments with an interest in the information and, where applicable, any third party source of that information, will respond to the Inquiry, in writing, as soon as possible and generally within 10 working days (noting that consultation with third parties outside HMG may take longer) either:
 - (a) confirming that the information can be published as proposed by the Inquiry; or,
 - (b) advising the Inquiry why it considers that any or all of the information proposed for publication would cause, or be likely to cause, any of the harms or breaches outlined in paragraph 7 above.
11. In the event of paragraph 10 (b) above, the lead government department will also advise the Inquiry, within the same timeframe or as soon as practicable thereafter, whether:
 - (a) the application of redactions to the information, or an alternative means of inclusion or release of the information, would allow publication without causing any of the harms or breaches cited; or,

- (b) if withholding the information in its entirety was the only way to prevent any of the harms of breaches cited.
12. Where, having received advice from the lead government department as set out in paragraphs 10 (b) and 11 above, the Inquiry is content to make any proposed redactions in full, or an alternative means of inclusion or release is agreed with the lead government department, it shall write to the lead government department confirming this. The Inquiry will then be free to publish the information in the agreed form.
13. Where, on the other hand, the Inquiry believes that any proposed redactions are not desirable or are too broad in their scope, or that the proposal to withhold the information in its entirety is unnecessary, it may refer the matter:
- in the first instance, to the Cabinet Secretariat in the Cabinet Office, in its role as the sponsoring department of the Inquiry, who will assist in seeking an agreement between the Department and the Inquiry on the form in which the information could be published; or
 - if agreement cannot be reached through the Cabinet Secretariat, the Inquiry Chairman will raise the matter, in writing, with the Cabinet Secretary in order to seek a resolution.
14. Where this process is successful and agreement is reached, the Inquiry and the lead government department will record in writing the agreed form in which the information may be published. The Inquiry will then be free to publish the information in that form as it sees fit.
15. Where no agreement is reached about a form in which the information can be published, the Inquiry shall not release that information into the public domain. In such circumstances, it would remain open to the Inquiry to refer, in its report, to the fact that material it would have wished to publish has been withheld.