

Questioning Witnesses

Unlike proceedings in court, a public inquiry is not adversarial in nature. It is an inquisitorial process. Its task is simply to get to the truth and it calls witnesses to help it do so. Witnesses do not give evidence 'for' or 'against' anyone and therefore there is no cross-examination of the kind that takes place in court.

In keeping with that, the Inquiry Rules 2006 say that, with some exceptions, only counsel to the inquiry and the inquiry panel may ask questions of witnesses. However, the questions the Inquiry asks may include some that lawyers representing core participants have suggested, based on the evidence that has been disclosed to them in advance of the hearing. More generally, the questioning may be along lines of inquiry that core participants or other witnesses have prompted when giving evidence themselves.

Witnesses appearing before the Inquiry will be taken through their witness statements and directed to any other relevant material. Questioning may be detailed and often quite probing. Inquiries are designed to find facts and detailed questioning is for the purpose of establishing as complete an understanding of the facts as possible. The Inquiry is not allowed to determine civil or criminal liability and so questions are not asked for the purpose of establishing guilt or innocence.

A witness may be asked questions in Phase 1 of the Inquiry that are relevant to issues that will arise in Phase 2, but only if it seems sensible and appropriate to do so. That may be because certain questions flow naturally from others or to avoid having to call a witness twice. In some cases, however, it may be necessary to call a witness in both phases.

The Inquiry may call witnesses who have different roles within an organisation, not just senior managers. It is important to hear from those who have first-hand knowledge of events, whether it be of making decisions or doing practical things.

Support for Witnesses

The Chairman has a wide discretion in making arrangements to ensure that those who are vulnerable or have special needs of any kind are able to give their evidence in the least distressing and most effective way.

The Inquiry consults the legal representatives of those who are called to give evidence (and, where appropriate, others who support them, such as counsellors) to help it assess the best way in which they can give evidence. Those who are to give evidence from the witness box are offered visits to the hearing room so that they can become familiar with the surroundings. The Inquiry is also willing to discuss other ways in which evidence may be given. The Inquiry has a dedicated witness liaison officer and a private waiting room for witnesses. In the hearing room the front row of the public seating is reserved for those supporting the witness.

The Inquiry has published a protocol for vulnerable witnesses, which sets out a range of measures which the Inquiry can provide to assist witnesses give evidence. It can be found on the inquiry's website at www.grenfelltowerinquiry.org.uk. The Inquiry continues to monitor the need for support throughout the period during which the witness is giving evidence.

The NHS's and Hestia's outreach and counselling teams attend all hearings to provide assistance to those who need it. Witnesses are also welcome to bring their own counselling support.

Making sure that questions come through a single person – Counsel to the Inquiry – keeps the process of giving evidence straightforward and ensures that the person asking the questions is aware of potential difficulties.

What do the Inquiry Rules 2006 say about who questions witnesses?

Oral evidence

10.—(1) Subject to paragraphs (2) to (5), 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 chairman may direct that the recognised legal representative of that witness may ask the witness questions.

(3) 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.

(4) The recognised legal representative of a core participant may apply to the chairman for permission to ask questions of a witness giving oral evidence.

(5) When making an application under paragraphs (3) or (4), 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.