

BRITISH VIRGIN ISLANDS COMMISSION OF INQUIRY

Protocol for the Conduct of Hearings

1. This protocol is intended to assist participants, witnesses, legal representatives, and any others attending a hearing of the Commission of Inquiry (“COI”) with key information as to how hearings will be conducted.

Place of Sitting

2. Unless otherwise directed by the Commissioner, the COI will hold its hearings at the BVI International Arbitration Centre, 3rd Floor, Ritter House, Wickham’s Cay II, Road Town, Tortola (“the IAC”).
3. For reasons of health and security, all those attending will be required to check-in via the receptionist iPad at the IAC Reception desk.
4. Any questions about the facilities available at the IAC or concerning a specific requirement, should be directed to the Secretary to the COI (steven.chandler@bvi.public-inquiry.uk) and the Assistant Secretary to the COI (juienna.tasaddiq@bvi.public-inquiry.uk) in advance. This is particularly important if any specific assistance is needed in order to participate in the hearing, for example if an individual has restricted vision or is hard of hearing. Those with mobility issues should be assured that these should not affect access to the Ritter Building nor to the hearing room on its 3rd floor.

Times of Sitting

5. The usual sitting times of the COI will be from 10.00am to 4.30pm Monday to Thursday. The Commissioner may direct that sittings are held at other times and/or on other days so as to ensure the continued progress of the COI. There will be breaks during the sitting day including for lunch.

6. Please aim to arrive not less than 20 minutes before the hearing is due to commence.

Form of Address

7. The Commissioner, Sir Gary Hickinbottom, should be addressed as “Commissioner” or “Sir”. Advocates and others attending a hearing are not expected to stand either when the Commissioner enters the hearing room or leaves it.

Attendance of witnesses and legal representatives at a hearing

8. Given COVID-19, steps have been taken to ensure that witnesses and their representatives are able to attend the hearings safely, including by keeping to a minimum the number of people in the IAC and in the hearing room at any one time. The IAC, including the hearing room, is cleaned thoroughly at the end of each sitting day.
9. With this in mind, witnesses are expected to attend the hearing alone, other than if accompanied by their legal representative(s) (as permitted in advance by the Commissioner).
10. All witnesses and legal representatives are expected to attend in person at any hearing at which they are required. Legal representation should be proportionate and should be limited to ensure compliance with COVID-19 safeguards. Legal representatives must therefore confirm their wish to attend in person by email to the Secretary to the COI (steven.chandler@bvi.public-inquiry.uk) and Assistant Secretary to the COI (juienna.tasaddiq@bvi.public-inquiry.uk) at least 24 hours before the relevant hearing. Remote attendance by video link may be possible upon application by email to the Secretary to the COI (steven.chandler@bvi.public-inquiry.uk) and Assistant Secretary to the COI (juienna.tasaddiq@bvi.public-inquiry.uk).

11. All visitors to the IAC are required to wear a mask or face covering in all common areas of the IAC and to sanitise their hands on arrival at the IAC Reception on the 3rd Floor. Once visitors are settled in the waiting room/area, and are at least two metres from any other persons/group, they may if they wish remove their masks or face covering but should resume wearing the mask or face covering at any time when moving around the common areas on the 3rd floor.
12. Restrictions mean that it will not be possible to provide separate consultation rooms for witnesses and their legal representatives.
13. Witnesses and any accompanying representative(s) will be told when they can enter the hearing room and will be directed as to where they should sit. Once seated in the hearing room, the witness and their legal representative(s) can remove their mask or face covering.
14. Social distancing should be maintained in the hearing room, and across the IAC, at all times.
15. Evidence will be given under oath or affirmation. If you wish to take the oath using a holy book other than the New Testament or Old Testament, please let the Secretary to the COI (steven.chandler@bvi.public-inquiry.uk) and Assistant Secretary to the COI (juienna.tasaddiq@bvi.public-inquiry.uk) know well in advance of the hearing. If you give evidence remotely, and wish to give it under oath, you will need to provide your own holy book. In either event, if you make an oath, you take the book in your right hand and read the oath from the card that will be provided to you. If you make an affirmation, you simply read the affirmation from the card that will be provided to you. You may take an oath or an affirmation whilst standing or seated.
16. There will be no restrictions on bringing mobile telephones into the hearing room but they must be either turned off or switched to silent. Calls must be made and taken outside the hearing room.

17. It is strictly prohibited to take any type of recording, film or photographs in the hearing room.

Remote attendees

18. Those joining a hearing remotely are required to confirm they are alone and cannot be overheard. Unless permitted by the Commissioner, they should keep their camera on during the proceedings save during a break. They should keep their microphone muted unless called upon by the Commissioner or Counsel to the COI, or if they wish to raise a matter for the Commissioner's attention such as that outlined in paragraph 22 below.
19. Remote attendees are reminded that it is not permitted to make any type of recording of the hearing. They will be asked to confirm that all mobile telephones are turned off and that all recording devices have either been removed or turned off.

Transcription

20. A transcript of the proceedings will be prepared in real time using a stenographer based outside the hearing room. Where necessary, for example if a question or answer is not clear or there is a dip in audio quality, the speaker may be asked to repeat what they last said. This is important so as to maintain the integrity of the record of proceedings. Those speaking are reminded to speak slowly and clearly and towards their microphones.

Attendance of the public and press at a hearing

21. The need to comply with COVID-19 safeguards means that it is not possible for members of the public or media to attend hearings in person. However, unless the Commissioner directs that a hearing or part of a hearing should be in private, all hearings will be live streamed on a dedicated YouTube channel. That will allow both the public and the media to follow the hearings as they take place. The link to the channel will be available on the COI's website.

22. The live stream will be subject to a three-minute time delay. In the event that a witness gives an answer which contains information that may not be given publicly, then the time delay will allow either Counsel to the Commission, the legal representative of a participant or a witness or the witness themselves to raise the matter within that three-minute period. The Commissioner will then direct that the live stream be paused and the hearing will go into private session. Once the Commissioner has determined the matter and/or any evidence that needs to be taken in private has been heard, the live stream will be resumed.

The Rt Hon Sir Gary Hickinbottom

Commissioner

1 June 2021