

HILLSBOROUGH INDEPENDENT PANEL – TERMS OF REFERENCE

The Hillsborough disaster was a personal tragedy for hundreds of people and an event of major national and international significance in the subsequent minimisation of safety risks at football matches and similar sporting events.

As such, Government and local agencies in South Yorkshire are committed to maximum possible public disclosure of governmental and other agency documentation on events surrounding the disaster.

The Hillsborough Independent Panel has been appointed to oversee this disclosure process, consulting with the Hillsborough families and statutory agencies where necessary, and to carry out the associated activities outlined in the panel remit below.

Exceptionally, the independent panel will be provided with access to Hillsborough documentation held by Government and local agencies relevant to events surrounding the tragedy in advance of the normal 30-year point for public disclosure.

The fundamental principles will be full disclosure of documentation and no redaction of content, except in the limited legal and other circumstances outlined in a disclosure protocol.

The remit of the independent panel will be to:

- oversee full public disclosure of relevant government and local information within the limited constraints set out in the accompanying protocol;
- consult with the Hillsborough families to ensure that the views of those most affected by the tragedy are taken into account;
- manage the process of public disclosure, ensuring that it takes place initially to the Hillsborough families and other involved parties, in an

agreed manner and within a reasonable timescale, before information is made more widely available;

- in line with established practice, work with the Keeper of Public Records in preparing options for establishing an archive of Hillsborough documentation, including a catalogue of all central Governmental and local public agency information and a commentary on any information withheld for the benefit of the families or on legal or other grounds;
- produce a report explaining the work of the panel. The panel's report will also illustrate how the information disclosed adds to public understanding of the tragedy and its aftermath.

HILLSBOROUGH INDEPENDENT PANEL

Protocol on Disclosure of Information

1. This protocol sets out the disclosure arrangements for information relating to the Hillsborough disaster.

Scope of information

2. The scope of the disclosure process is intended to cover all documentation held by central government, local government and other public agencies which relates directly to events surrounding the Hillsborough tragedy up to and including the Taylor report, the Lord Stuart-Smith review of Hillsborough papers in 1998-99 and the private prosecution in 2000. The relevant agencies include the police, ambulance service, fire service, coroner and Sheffield City Council.

Archiving and Cataloguing

3. In order to assist the work of the panel and in view of the volume of documentation, each agency holding relevant documentation will make arrangements for all papers in their possession to be archived and catalogued, prior to disclosure to the panel.

Principle of full disclosure

4. The fundamental aim is to provide full disclosure of documentation to the panel and, subsequently, to the Hillsborough families and then the wider public, taking into account legal and other considerations set out below.

Pre-1997 Government information

5. Some information held by central government is covered by the convention on the release of papers of a previous administration (as set out by the Prime Minister on 24 January 1980). This does not apply to all information from before May 1997, but to documents indicating the views of ministers, such as Cabinet material or policy advice to ministers. The convention requires that such information cannot be disclosed without first consulting representatives of that administration.

6. The Government will consult representatives of the previous administration about the release of information covered by the convention, and will release such information only in accordance with that convention.

Exceptions to public disclosure

7. The vast majority of information held by central and local government and other public agencies will be disclosed. A limited number of exceptions will apply, which for example are expected to include:
 - a) information covered by legal professional privilege;
 - b) information which public bodies are legally prohibited from disclosing (including information provided in confidence by third parties);
 - c) information indicating the views of ministers, where release would prejudice the convention of Cabinet collective responsibility.
8. In all of the above cases, the decision to withhold information will be considered on a case-by-case basis by the holding agency. Wherever possible, information that cannot be disclosed to the public will be disclosed on a closed and confidential basis to the panel and a description of the information provided for public disclosure. Where disclosure to the panel is not possible (which will be the case for a very small number of documents), the holding agency will be asked if they could provide a description of the information for the panel which can be made available to the public in the same form.

Redaction of individuals' identities

9. Where it is appropriate and necessary, it is expected that the Panel will recommend that the identities of certain categories of individuals will be redacted from information prior to disclosure to the public. These are expected to include the identities of:

- a) members of the public who have provided written observations on events associated with the tragedy;
 - b) civil servants who were not members of the Senior Civil Service at the time the document was produced;
 - c) police officers who were constables or other ranks up to and including sergeant at the time the document was produced;
 - d) other junior public employees who were not in a position to determine their agency's response to events prior to, during or in the aftermath of the tragedy.
10. Where individual identities are redacted, an indication of the individual's position or status will be given to the public. In addition, where it is necessary to achieve consistency of identification, it is expected that the panel will recommend that individuals are given anonymised identifiers (for example, "officer A" or "official C").

Lord Chancellor's Advisory Council

11. In any cases where the independent panel believes there to be a public interest in obtaining access to any withheld or redacted information, and where the holding agency disagrees, the matter will be referred to the Lord Chancellor's Advisory Council on National Records and Archives (an independent body tasked to oversee decisions on the release of public documents). The Advisory Council will then provide independent, impartial advice on the reasons given by departments or agencies for retention of information.

Consultation with Hillsborough families

12. The independent panel should consult and reflect the views of the Hillsborough families when co-ordinating the publication of distressing or personal information regarding those who died.

Public disclosure process

13. The independent panel should ensure that disclosure takes place initially to the Hillsborough families and other involved parties, in an agreed

manner and within a reasonable timescale, before information is made more widely available. No disclosure should take place to any other involved party before disclosure is made to the Hillsborough families.

14. It is expected that the disclosure process will take place on an incremental basis over a period of at least two years.

Report on the work of the independent panel

15. The independent panel will be responsible for producing a report on its work. The detailed content of the report will be a matter for the independent panel, but the government envisages that it will cover:
 - a) a description of the terms of reference and work of the panel;
 - b) an overview of the information reviewed by the panel and publicly disclosed;
 - c) an overview of the information provided to the independent panel on a closed basis, based on the summary description provided to the independent panel;
 - d) an overview of the withheld information, based on the summary description provided to the independent panel;
 - e) how the information disclosed adds to public understanding of the tragedy and its aftermath.

Hillsborough Archive

16. The independent panel should liaise closely with the Keeper of Public Records (who holds statutory responsibility to authorise a place of deposit as suitable for housing public archives) in making recommendations regarding options for establishing a designated Hillsborough document archive, including such matters as the location, conservation and format of records to be retained in the archive.

Confidentiality of closed information

17. Information that is provided to the independent panel on a closed basis shall remain confidential to members of the independent panel and the secretariat and shall not be made public. Members of the independent

panel will be required to sign a confidentiality agreement regarding disclosure of that information.

Secretariat and practicalities

18. The work of the independent panel will be supported by a secretariat consisting of officials from the Home Office, Ministry of Justice and The National Archives. The costs of the secretariat will be met by the Government.
19. The independent panel is expected to meet in London, Sheffield and Liverpool. Frequency of meetings will be for the independent panel to determine, but it is initially expected to meet monthly.
20. Members of the independent panel will receive a daily allowance at rates to be published, and repayment of actual travel and subsistence expenses in accordance with Home Office rules for senior civil servants.