

Scottish Child Abuse Inquiry

PO Box 24085; Edinburgh EH7 9EA

e-mail: talktous@childabuseinquiry.scot

Practice guideline on pre-hearing procedures

Introduction

1. This practice guideline is subject to the Inquiries Act 2005 and the Inquiries (Scotland) Rules 2007. It is intended to provide general information and guidance on procedures in advance of an Inquiry hearing.
2. For information on the practical arrangements for hearings see the [Factsheet on hearings](#).
3. For information on procedures at hearings see the [practice guideline on hearings](#).
4. This practice guideline is not intended to cover every situation that may arise. The Chair of the Inquiry will make decisions about other procedures before hearings that are not covered by this practice guideline, as required. She may, if she thinks it appropriate, ask for submissions before making a decision.

Documents

5. The Inquiry will use an electronic document database. Training will be provided to any person who needs access to the database.

Timetables

6. The Inquiry will issue a timetable in advance of each hearing. The timetable will be sent to anyone taking an active part in the hearing. The timetable will also be published on the Inquiry website. The timetable will detail the dates and procedural steps relevant to that hearing. The procedural steps and the timescales for those steps will vary from hearing to hearing.

Participation in Inquiry hearings

7. Advance notice of each Inquiry hearing will be published on the Inquiry website.
8. As a general rule, members of the public can attend Inquiry hearings.
9. The notice will invite persons and organisations who want to actively participate in part or parts of a hearing to apply for “leave to appear” within two weeks of the publication of the notice. The [application form](#) is available on the Inquiry website. Applications made after that two week period may not be considered.

10. “Appear” means actively participating in part or parts of a hearing including having access to any documents held by the inquiry which the Inquiry considers are relevant to their interest in the hearing, being able with the permission of the Chair to provide questions for Inquiry Counsel to ask witnesses, and/or being able to ask questions of witnesses direct, and being able to make submissions.

11. For leave to appear, a person or organisation must have a direct and/or substantial interest in the scope and purpose of such part or parts of the hearing to which the application relates.

12. The Chair will decide all applications for “leave to appear”. She may ask a person or organisation applying for “leave to appear” to make submissions to her in person about the application.

13. It is unlikely that the Chair will grant any person or organisation unconditional leave to appear. It is anticipated that most grants of leave will be subject to conditions, such as:

- limiting the particular topics or issues upon which the person or organisation can ask of witnesses; or
- time limits on questioning of witnesses.

14. Those actively participating in a hearing, including legal representatives, will have to sign confidentiality undertakings before they obtain access to any documents held by the Inquiry.

15. The Chair may withdraw leave to appear or make leave subject to altered or additional conditions at any time.

Disclosure of allegations of abuse

16. Where it is fair to do so, the Inquiry will disclose allegations of abuse, and the name of the person who has told the Inquiry that she or he was abused in accordance with the provision of the [General Restriction Order](#).

17. Persons who have told the Inquiry that they were abused will be given 14 days’ notice of the Inquiry’s intention to disclose allegations of abuse and names. Such persons will have the opportunity to tell the Inquiry if they do not want their names and allegations disclosed and the reasons for that. They can do this by applying for a restriction order to be anonymous. For more information see the factsheet [disclosing names and allegations](#). For details on how to apply for a restriction order, see the [Protocol on Anonymity](#).

Access to document and evidence database

18. In advance of hearings, the Inquiry will provide persons and organisations (or their legal representatives) who will be actively participating in a hearing with access to a document and evidence database. This will allow them sight of evidence that the

Inquiry considers relevant to that person. Training on how to access the database will be provided.

19. Any additional documents will be provided as far in advance of the hearing as possible. There may be occasions when documents become available, or their relevance becomes apparent, at short notice.

20. The timetable will provide an opportunity to those persons and organisations taking active part in a hearing to respond to the documents shared on the database. This will include telling the Inquiry what evidence in the documents is accepted or disputed. At the same time, any documents or other evidence, including witness statements not provided by the Inquiry that is intended to be relied upon must be sent to the Inquiry. If any such document or other evidence is unavailable, reasons for this and information as to its whereabouts must be given to the Inquiry.

21. Where appropriate, the Inquiry will provide access to any additional documentation supplied by the Inquiry or by a person or organisation taking active part in the circumstances described above, by uploading it onto document and evidence database.

Witnesses including vulnerable witnesses

22. The Inquiry will inform witnesses of its intention to call them to give oral evidence as far as possible in advance of the hearing. Witnesses will be sent a formal notice requiring them to attend a hearing to give evidence at hearings.

23. Inquiry hearings are public. As a general rule, witnesses will usually give evidence at a hearing in public.

24. Witnesses who wish to be anonymous must apply to the Inquiry for a restriction order. For details on how to apply, see the [Protocol on Anonymity](#). Witnesses whose anonymity is already protected by a general restriction order do not need to apply.

25. Anyone who considers himself or herself to be a vulnerable witness can apply to give evidence with support. Support includes giving evidence from behind a screen, by video-link, and/or accompanied by a supporter. Witnesses under the age of 18 or who are giving evidence of personal experience of being abused will be treated as vulnerable witnesses.

26. A list of the witnesses that the Inquiry intends to call will be sent to those actively participating in a hearing. The Inquiry may not call every witness on the list.

27. Questions proposed by those actively participating must be sent to the Inquiry no later than 3 days before the witness to be questioned is to give evidence. The proposed questions must be in writing and should be sent by email to solicitors@childabuseinquiry.scot. Inquiry Counsel will decide which proposed questions to ask. Proposed questions submitted late will only be accepted at the

discretion of Inquiry Counsel. In case of dispute the Chair will decide which proposed questions Inquiry Counsel should ask.