

# Scottish Child Abuse Inquiry

PO Box 24202; Edinburgh EH3 1JN

e-mail: [information@childabuseinquiry.scot](mailto:information@childabuseinquiry.scot)

## Guidelines in relation to hearings

1. These guidelines provide general information about Inquiry hearings including some of the procedures that are likely to be followed.
2. For more information on the practical arrangements for hearings see the [Factsheet on hearings](#). The factsheet includes information about where our hearings venue is, the facilities available, and how members of the public can come to watch the hearings.
3. For more information on procedures before a hearing see the [Protocol on pre-hearing procedures](#).
4. These guidelines are not intended to cover every situation that could arise during hearings. The Chair may, for instance, make decisions about procedures or practice, as required, that are not covered by this document. She may, if she thinks it is appropriate, ask for submissions from those participating in the hearing before making any such decisions.

These guidelines refer to “applicants”. They are those persons who have told us about abuse they experienced whilst they were, as children, in care.

### How are hearings divided up?

The Inquiry’s hearings are divided into phases. Phases will include “case studies”. A case study gives the Inquiry the opportunity to look in more detail at the residential care provided by a particular provider or organisation at particular institutions. A case study may also consider a theme or topic which applies to more than one institution, care provider or organisation.

### The order of events at hearings

#### Opening submissions

5. At the start of a hearing into a case study Inquiry Counsel will provide a brief outline of what the case study will cover. Inquiry Counsel will indicate the intended order of witnesses. Inquiry Counsel will not summarise the evidence to be heard.
6. Those persons or organisations taking active part in that hearing may then be given the opportunity by the Chair to make an opening submission.

7. This is a chance for any person or organisation taking active part to explain their positions on any matter arising from the case study, if they want to do so.

#### Calling witnesses

8. After opening submissions, Inquiry Counsel will call the first witness to give evidence. All witnesses will be required by the Chair to swear an oath or affirm that their evidence is true.

9. If the Inquiry has allowed a witness to use a pseudonym (made up name) to protect their identity, Counsel will use that name when calling the witness.

#### Witness statements

10. During the course of a hearing all or part of any relevant witness statements may be read out or summarised by Inquiry counsel, as appropriate.

#### Closing submissions

11. At the end of each phase or part of a phase, Inquiry Counsel will make such submissions as are, in the circumstances, appropriate. Those who have had leave to appear will be asked by the Chair to make closing submissions .

### **Witnesses**

12. The witnesses for each hearing will be contacted by the Inquiry's witness support team in advance. They will be given as much notice as possible of the date(s) when they need to attend to give evidence. Witnesses will also receive written notification, and those who require special measures to be taken e.g. to protect their identity such as by using a pseudonym or screens, or to enable evidence to be given by video-link or with a particular supporter, will be advised what to do about that.

#### Section 21 notices

13. Witnesses who are not applicants will receive a formal notice (in terms of section 21 of the Inquiries Act 2005) from the Inquiry, requiring them to give evidence on a particular date. If the witness is to give evidence by video link from a different location, the notice will specify that location. These witnesses will also receive a covering letter with the section 21 notice explaining more about the notice and the arrangements for taking their evidence.

14. It is very important that witnesses who receive a section 21 notice comply with it. Failure to do so is a serious matter and may amount to a criminal offence.

#### Non-attendance

15. Any witness who thinks they will not be able to attend the Inquiry to give evidence on the date they are due to do so must contact the Inquiry immediately. The Inquiry's witness support team can be contacted by email at [talktous@childabuseinquiry.scot](mailto:talktous@childabuseinquiry.scot) or by phone on 0800 0929 300.

### Familiarisation visits

16. A witness can ask to visit the hearings venue before they give evidence if they wish to do so.

### During Inquiry hearings

17. During the hearings the Inquiry's witness support team will be on hand to help all witnesses. They will meet witnesses on arrival, answer any questions and support witnesses through the process.

18. On the day they are due to give evidence, witnesses are not allowed to sit in the hearings room before they have given their evidence (unless the witness is also a core participant). If they attend a hearing on any other day before they give their evidence, they should check first with a member of the Inquiry team whether or not they are allowed to sit in the hearings room whilst other witness(es) are giving their evidence.

### Anonymity

19. If the Chair has made a restriction order to protect a witness' identity, the witness will not be referred to in the hearings by her/his real name. Instead pseudonyms will be used. Witnesses already covered by general restriction orders include applicants and alleged abusers. Any other witness may apply to the Chair for a specific restriction for the same or similar protection if they have a justifiable concern about their identity being made public.

20. Witnesses can normally be seen by everyone in the hearings room. However, any witness can apply for a specific restriction order to allow them to give evidence from behind screens. If this is granted, the witness will be seen only by the Chair, members of the inquiry team and stenographers, and any other person who is given permission to ask the witness questions. The witness will not be seen by anyone else when in the hearings room.

21. Any witness can apply for a specific restriction order to allow them to give evidence by video-link from another location. If granted, the order will allow the witness to be in that other location. The restriction order may, depending on the particular circumstances, allow the witness to be seen (on the video link) by everyone in the hearings room or only by the Chair, members of the Inquiry team and stenographers, and any other person who is given permission to ask the witness questions.

### Vulnerable witnesses

22. Separate to any measures to protect a witness' anonymity, any witness who considers themselves to be a vulnerable witness can ask about being afforded support by way of special measures such as giving evidence from behind screens, by video-link or by means of some other appropriate arrangement to accommodate their particular vulnerability.

23. Witnesses under the age of 18 or who are giving evidence of personal experience of being abused will be treated as vulnerable witnesses.

#### Recall of witness or further witness statement

24. The Chair may permit a witness who has already given evidence, to be recalled at a later date. That may happen if , for example, their evidence did not finish during the anticipated timescale or new information comes to light about a matter relevant to the evidence the witness has already given about which the witness may be able to provide further evidence or, in fairness, ought to be afforded an opportunity to comment.

25. If the Chair decides to permit the recall of a witness, she may ask the witness to do so by providing a further witness statement or by giving evidence in person.

#### Claiming expenses for being a witness

26. Witnesses can claim expenses for travel and food, and compensation for loss of time, for coming to the Inquiry hearings to give evidence.

27. For more information on what can be claimed, and how to apply, see the Inquiry's protocols on [expenses](#) and [loss of time](#). The Inquiry's witness support team can also help witnesses to apply.

### **Questions of witnesses**

28. Witnesses are usually asked questions only by Inquiry Counsel. However, those who are actively participating in a hearing can propose questions for Inquiry Counsel to ask, they may be invited to ask questions , or they may seek the Chair's permission to ask questions..

29. Only Inquiry Counsel and the Chair have an unqualified right to ask a witness questions.

### **Display and publication of documents and transcripts**

#### Display of documents at hearings

30. Documents referred to in hearings will normally be in electronic form . The Inquiry's document display technology allows documents to be viewed on screens throughout the hearings room.

31. Where documents (including witness statements) are redacted, they will be redacted before they are displayed to protect the identity of any person covered by a restriction order made by the Chair, and to protect personal information relating to any other person where the information is irrelevant to the work of the Inquiry.

32. The Chair may decide that the contents of all or part of a particular document should not be made public. In that event, she will do this by making a restriction order. It will include provisions to prevent public display of the document at any hearing. For more information on restriction orders see the [Protocol on Anonymity](#).

33. If the Chair makes such a restriction order the document will be displayed on screens which can be seen only by the Chair, members of the Inquiry team and stenographers, and anyone actively participating in the hearing. The document will not be displayed on any other screens..

#### Transcript of hearings

34. A daily transcript of the evidence is published on the Inquiry's website. The transcript is usually published on the same day or, in any event, as soon as possible after the hearing to which it relates.

#### Publication of documents on the Inquiry website

35. The Inquiry will publish the witness statements relevant to each hearing by putting them on its website. The published statements will include the statements of witnesses who give oral evidence at the hearings in addition to the statements of those who do not do so.

36. All witness statements are redacted before publication to protect the identity of anyone covered by a general or specific restriction order made by the Chair, and to protect personal information relating to any other person where appropriate. For more details on the Inquiry's approach to anonymity, see the [Protocol on Anonymity](#).

37. The Inquiry may also publish other documents relevant to the subject matter of a particular hearing . These could include reports by people or organisations directly involved or reports by expert witnesses.