

# Scottish Child Abuse Inquiry

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## Factsheet - words and phrases explained

This factsheet explains some of the words or phrases used in Inquiry documents and on our website.

If an explanation refers to a word which is also explained in this factsheet, the word is shown in *italics*.

**abuse** – it can mean physical and sexual abuse, as well as some other forms of abuse like emotional abuse and neglect. A full definition is set out in our [Terms of Reference](#).

**anonymity** - means keeping something private. If a *witness* is granted anonymity it means that any information that could reveal who the witness is must not be shared, disclosed or published by anyone. The Chair decides whether or not to grant anonymity to a witness.

**applicant** - is the term we use for a person who tell us they were abused if their experiences fall within the matters we can investigate. Those matters are set out in our *Terms of Reference*. A person who tells us they were abused while in an institution or while in foster care can be an applicant. The abuse does not need to have occurred in the institution or foster home where the person lived. Also, a person who was sent to live abroad as a child can be an applicant if their care abroad was arranged in Scotland.

However, a person who tells us they were abused when they were an adult can't be an applicant because we can only investigate the abuse of children in care. Nor can a person be an applicant if they were not living in a residential institution, or in a foster home, when they were abused. A person can't be an applicant if the abuse took place abroad and their care there was not arranged in Scotland.

You can apply to be an applicant whether or not you have claimed damages for abuse, or reported abuse to the police. It doesn't matter if the person you name as your abuser has died. It doesn't matter if you have been convicted of any criminal offences in the past.

**“bodies with legal responsibility for the care of children”** - this phrase comes from our *Terms of Reference* which set out what we must look into. It refers to any body which had a legal duty to care for children within living memory and up to 17 December 2014. Examples are local authorities and central government.

**Chair of the Inquiry** – this is the Right Honourable Lady Smith. She was appointed Chair by the Scottish Ministers. She is responsible for the Inquiry. She makes all the decisions about the procedure and conduct of the Inquiry.

**“children in care”** - this means children who stayed in residential *institutions* – such as children’s homes, borstals and List D schools - from within living memory up to 17 December 2014. The term also includes children in foster care and Boarded Out children. A full definition is set out in our *Terms of Reference*.

**core participant** – this means someone who is expected to have a significant part in the Inquiry. The *Chair* decides who should be core participants. They can be people, groups, organisations or bodies. For more information about being a core participant, and how to apply see our [protocol and application form](#).

**Counsel to the Inquiry** - Counsel are lawyers who are either Queen’s Counsel or advocates. They are appointed by the Chair and they work with the Inquiry team to identify relevant evidence, witnesses and documents. They analyse the evidence gathered and present it to the *panel* members and they provide legal advice to the Chair.

**determination** – this refers to some of the decisions made by the *Scottish Ministers* and to some decisions made by the *Chair*. Determinations can be about how much someone gets paid for working for us, or whether we should pay a person’s expenses.

**directions** - these are instructions given by the *Chair* about how the Inquiry operates.

**documents** - the Inquiry obtains many different types of documents as part of its work. Witnesses and other people may offer us documents. We can also require people and organisations to give us documents that they have. The formal process for this is done by a letter called a “section 21 notice”.

**evidence** - means all the information about people’s experiences, knowledge, understanding, views, and opinions that the Inquiry hears about. Evidence can be given to us in writing – such as in a *witness statement* - or by speaking – such as asking questions at a public hearing.

**“institutions...with legal responsibility for the care of children”** - this phrase comes from our *Terms of Reference* which set out what we must look into. It refers to any organisation which had a legal duty to care for children within living memory and up to 17 December 2014. Examples are borstals, List D schools and Young Offenders’ Institutions. It also includes organisations responsible for children in foster care and Boarded Out children.

**legal representation** - means a lawyer advising you and acting on your instructions. It may include a lawyer representing you at a public hearing. For more information on legal representation, see our [factsheet](#).

If you decide you want a lawyer, but can’t afford one we may be able to help with the cost. For more information, and how to apply, see our [protocol and application form](#) on costs of legal representation.

**limitation** - a legal rule which means that a court action for damages cannot proceed if it started more than 3 years after the abuse referred to took place. It is sometimes referred to as a “*time-bar*” rule.

**orders** – means decisions made by the *Chair*.

**prescription** - a legal rule which meant, until 1984, that an obligation to pay damages for abuse no longer existed in law, 20 years after the abuse ended.

**private session** - this is what we call the meeting between a person who tells us they were abused and members of the Inquiry team. At the session, the person talks about their experiences. After a private session a witness statement is prepared for the person, based on what they told us.

For more information on private sessions see our [factsheet](#) for people who tell us they were abused and the [protocol on witness statements and other evidence](#).

**protocols** - these are the rules which set out how we operate. They can be seen on our website. Our witness support team can also send them to you by post or email. The protocols can’t cover everything that might happen in the Inquiry. If something unexpected or different happens, the Chair will make a decision about how to proceed at that time.

**public hearings** - These are public events. They may be fixed for the purpose of providing information. They may involve *witnesses* giving *evidence* and *documents* being looked at. They may involve *submissions* being made by *core participants*, legal representatives and/or *Counsel to the Inquiry*. Hearings are open to the public and media whenever possible. A core participant and their legal representative can attend a public hearing that relates to their interest in the Inquiry. Witnesses are usually asked questions by Counsel to the Inquiry.

**redaction** - the process of blacking out particular words in documents so they can’t be read. The words could otherwise reveal the identity of someone unconnected to the Inquiry – such as a relative. Or, the words could otherwise reveal the identity of a person who the Chair has decided should have *anonymity* – such as a person who has told us they were abused.

**restriction order** - this is an order made by the *Chair*. The Chair may make an order to prevent anyone sharing, publishing or disclosing particular information. This could be about the identity of witnesses who the Chair has decided should have anonymity.

The Chair can also make a restriction order to allow a public hearing to be heard in private, or to allow a witness to give evidence from behind a screen or using a video link.

**Scottish Ministers** - The Scottish Ministers are in charge of the Scottish Government. They decided to set up the Inquiry and appointed the *panel* members. They also set out our *Terms of Reference*. But we operate independently of Scottish Ministers and independently of Scottish Government.

**Secretary to the Inquiry** - The Secretary is appointed by the Chair and is in charge of the running of the Inquiry on a day to day basis.

**section 21 notice** – this means a letter sent to a person or organisation by the Chair. The letter requires them to provide documents or a written statement to us. Failing to comply with a section 21 notice is a criminal offence.

**Solicitor to the Inquiry** - The Solicitor is a lawyer appointed by the Chair who is in charge of the team providing legal advice to the Inquiry separately from *Counsel to the Inquiry*.

**submission** - this is the legal term for any request or proposal presented to the *Chair* for decision or to assist in the making of any decision. It could be made by a *core participant* (or their *legal representative* if they have one) or by someone else involved in the Inquiry. A submission can be made in writing at any time. During our *public hearings* it may be possible to make a submission by speaking publicly in the hearing.

**Terms of Reference** – these set out what we require to look into. They were decided by the Scottish Ministers, not by us. They can be seen [here](#) on our website. Or our witness support team can send them to you by post or email.

**time-bar** – this is a legal term which refers to the rule of *limitation*. It can prevent a person claiming damages for abuse. Under the current law of Scotland, a person must usually start a court action for damages within 3 years of being abused. The law on this may change...

**transcript** – means a written record of all the evidence heard at a public hearing. Transcripts of each *hearing* are usually published on our website.

**warning letter** – we are required by law to warn anyone who may be criticised in our report(s). A warning letter can be sent to a person, group, organisation or body. The letter sets out the criticisms and gives them an opportunity to comment. We must consider all the comments before we finalise our report(s).

**witness** - witnesses give evidence to the Inquiry. It can be spoken or written evidence. They can be a wide range of people – including those who tell us they were abused, people who tell us they saw others being abused, staff who looked after children in care, foster carers, social workers, officials in central and local government who decided policies about children in care, police, doctors, counsellors and experts.

Our witness support team is available to help anyone who is a witness to the Inquiry.

**witness support team** – means the members of our team who provide support to anyone who is a *witness* to the Inquiry. This means anyone giving a *witness statement* to us, or giving *evidence* at a *public hearing*. You don't have to be telling us you were abused for the witness support team to help you. Giving evidence can be a daunting experience for anyone.

**witness statement** – means a written note of the evidence that a person has given the Inquiry. A witness statement is usually prepared by the Inquiry. We ask a witness to go over the statement, and sign it when they are content with it. In some cases we may ask a person to prepare a witness statement themselves, or with the help of their legal representative, if they have one.

For more information about witness statements see the [protocol on witness statements and other evidence](#).