

# Scottish Child Abuse Inquiry

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## Protocol on pre-hearing procedures

### Introduction

1. This protocol is subject to the Inquiries Act 2005 and the Inquiries (Scotland) Rules 2007. It is intended to provide general information and guidance on some of the procedures that take place in advance of an Inquiry hearing.

2. For information on practical arrangements and practices and procedures at hearings see [Guidelines in relation to hearings](#).

3. This protocol is not intended to cover every situation that may arise. The Chair of the Inquiry may make decisions about other pre-hearing procedures that are not covered by this protocol, as required from time to time. She may, if she thinks it appropriate, ask for submissions before making any such decision.

### Documents

4. The Inquiry will use an electronic document database. Training will be provided to any person granted access to the database.

### Participation in Inquiry hearings

5. Advance notice of each Inquiry hearing will be published on the Inquiry website.

6. As a general rule, members of the public can attend Inquiry hearings.

7. 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 four weeks of the publication of the notice. The [application form for leave to appear](#) is available on the Inquiry website. Applications made after that four week period may not be considered.

8. “Appear” means where a person actively participates in part or parts of a phase including having access to any documents held by the inquiry which the Inquiry considers are relevant to their interests, being able to request Counsel to the Inquiry to ask certain questions of witnesses, and/or being able to ask questions of witnesses direct (with the permission of the Chair). It may also mean being invited to make submissions.

9. Persons or organisations seeking leave to appear must apply to the Chair. They must, as a minimum, have a direct and/or substantial interest in the scope and purpose of such part or parts of the Inquiry phase to which the application relates.

10. The Chair will decide all applications for “leave to appear”. She may decide the application on the papers or she may ask the person or organisation applying to make submissions to her in person in support of the application. If leave to appear is granted, it may be restricted to a specific part of a phase or for a specific purpose or may be otherwise restricted, according to the circumstances.

11. Those with leave to appear and their legal (or other) representatives, will be required to sign confidentiality undertakings before they are given access to any documents held by the Inquiry.

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

### **Disclosure of allegations of abuse/ Anonymity**

13. In accordance with the provisions of [General Restriction Order](#), the Inquiry’s practice is to disclose the identities of applicants and details of their evidence including allegations to persons/organisations named by them – and to their legal representatives – on a strictly confidential basis, for reasons of fairness and only for the purpose of protecting any legitimate interest those persons/organisations have in the work of the Inquiry.

14. Applicants (i.e. persons who have told the Inquiry that they were abused) will be given 14 days’ notice of the Inquiry’s intention to disclose their evidence in this way. If they have concerns about any planned disclosure or wish to object to it, they should raise this with the Inquiry immediately. They can themselves apply for a restriction order. For more information see the factsheet [sharing applicants’ evidence including allegations](#). For details on how to contact the Inquiry, and how to apply for a restriction order, see the [Protocol and form - Restriction Order](#).

### **Access to document and evidence database**

15. In advance of hearings, the Inquiry will provide core participants (or their legal representatives) who have leave to appear with access to its document and evidence database. This will allow them sight of the case study evidence bundle. Training on how to access the database will be provided. Other persons and organisations who have leave to appear, but are not core participants, will be given access to relevant documents that are on the database.

16. In advance of the relevant hearings, any documents or other evidence (including witness statements not obtained by the Inquiry on which reliance is to be placed) 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.

17. Any additional documents will be provided by the Inquiry as far in advance of the hearing as possible, usually via the database. There may be occasions when documents become available, or their relevance becomes apparent, at short notice in which case, other arrangements for sharing the documents may have to be made..

## **Witnesses**

18. The Inquiry will inform witnesses of its intention to call them to give oral evidence as far as possible in advance of the hearing. Non-applicant witnesses will be sent a formal notice under section 21 of the Inquiries Act 2005, requiring them to attend a hearing to give evidence at hearings.

19. Inquiry hearings are public. As a general rule, witnesses will usually give evidence at a hearing in public. For further information see [Guidelines in relation to hearings](#).

### Vulnerable witnesses

20. Separate to any measures to protect a witness' anonymity, any witness who is deemed to be, or considers themselves to be, a vulnerable witness can ask for special measures. See the [Guidelines in relation to hearings](#).

### Lists of witnesses and questions for witnesses

21. A list of the witnesses that the Inquiry intends to call will be sent to those with leave to appear. The Inquiry may not, however, call every witness named on the list.

22. Questions proposed by anyone with leave to appear must be sent to the Inquiry no later than 3 days before the witness in question is to give evidence. The proposed questions must be in writing and should be sent by email to [solicitors@childabuseinquiry.scot](mailto: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.