

Scottish Child Abuse Inquiry

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Factsheet – sharing applicants’ evidence, including allegations

This factsheet explains when the Inquiry may share what an applicant has told us, including allegations of abuse, with the organisation who cared for the applicant when a child or any person named by the applicant as an abuser. We do this by sharing a redacted version of the applicant’s statement.

If your application to give evidence was made before 1st October 2018, there is a different version of the factsheet which applies to you. Your witness support officer will send you the correct version of this factsheet depending on the date you applied.

“Applicant” is the term the Inquiry uses for a person who tells us they were abused if their experiences fall within the matters we can investigate.

Fairness and evidence

The Inquiry must be fair to everyone involved with the Inquiry. This is a legal requirement. Sometimes the need for fairness means that the Inquiry must share what an applicant has told us, including allegations, with the organisation who was responsible for the care of the applicant when a child or with any person named by the applicant as an abuser.

The Chair also has a legal obligation to allow the public to access the evidence before the Inquiry (in a way which protects applicants’ identities); this is why applicants’ redacted statements are published on the Inquiry website.

At the stage when an applicant’s evidence is shared with a care provider and/or with a named abuser, it’s shared in confidence and can’t be made public. This sharing is because of the organisation’s and/or abuser’s legitimate interests in the Inquiry and/or to allow us to carry out our investigations.

All evidence given to the Inquiry is valuable. We take account of all the evidence given to us by all applicants whether or not what they have told us has been shared with the relevant organisations and/or persons named as abusers.

When we may share what an applicant has told us

If you are an applicant we will not always share what you have told us. There is no “blanket rule”. We will assess each case carefully to decide whether we need, for fairness, or to progress our investigations, to share your redacted statement. If we

share it, we will also need to share your name, in the interests of fairness, but anyone we share your name with cannot make your identity public.

We may need to share what you have told us:

- in order to be fair when investigating allegations of abuse at an establishment run by an organisation that had responsibility for your care;
- in order to be fair when investigating allegations that a person named by you abused children .

We may **not**, however, need to share what you have told us:

- if the person named by you as your abuser has already been convicted of having abused children in the past;
- if the organisation that was responsible for your care as a child accepts that children in its care were abused by that person.

Advance notice of sharing what an applicant has told us

We realise that some applicants will be anxious at the prospect of what they have told us being shared with the organisation that was responsible for their care or with a person they have named as an abuser.

If we are intending to share what you have told us we will tell you before we share anything. We will tell you at least 14 days before the date we are intending to share the information. Please note that notice will **not** be given where we are only sharing your name, and not what you have told us e.g. where we need to recover records in order to progress our investigations. Further information about sharing applicants' names is provided later in this factsheet.

If, at that stage, or at any time before then, you do **not** want your evidence to be shared by us, you need to apply to us for a restriction order, explaining why you do not want that to happen, **as soon as possible**.

More information on restriction orders, including the application form, are in our [protocol on restriction orders](#). Our witness support team can post or email you a copy if you prefer. Please explain in your application form the reasons why you are asking us not to share your evidence and/or any information you have provided to us, and who your concerns relate to i.e. the organisation that was responsible for your care and/or any person you have named as having been an abuser. Please note that you **do not need to apply for a restriction order to be anonymous** as that is already provided for by the Chair's General Restriction Order.

The Chair will consider your application and make a decision. If you apply for an order, no sharing will take place until your application has been decided.

The effect of a restriction order

A restriction order must be obeyed by everyone, including the Inquiry team.

Breaching a restriction order is a very serious matter. The Chair may decide that an organisation which or person who breached an order should take no further part in the Inquiry, or be prevented from attending the public hearings. The Chair may also refer the breach to the Court of Session.

Sharing on confidential basis

If we **do** share what you have told us with an organisation or person, we require that organisation or person to keep the information confidential. They can't make it public or tell anyone else about it. They will have to sign a confidentiality undertaking before we share the information. If they refuse to sign an undertaking we will not share any information with them.

If an organisation or person breaches a confidentiality undertaking, for example by telling others what you have told us, this is a very serious matter. The Chair may decide that the organisation or person should take no further part in the Inquiry, or be prevented from attending the public hearings. The Chair may also refer the breach of a confidentiality undertaking to the Court of Session.

Sharing applicants' names

We may also need to share an applicant's name with a person or organisation where we believe that they hold information that we need in order to progress our investigations.

If we share your name with an organisation or person, we require that organisation or person to keep the information confidential. They can't make it public or tell anyone else about it. They will have to sign a confidentiality undertaking before we share the information. If they refuse to sign an undertaking we will not share any information with them.

Sharing information with the police

The arrangements set out in this factsheet do not apply to our sharing of information, including the names of applicants, with Police Scotland. We do this in order to allow the police to assess the current risk of harm to children and vulnerable adults. For more information about how and when we share information with the police see our [protocol on restriction orders](#).

The Inquiry's privacy notice is attached to this factsheet for information.

Appendix – for information

PRIVACY NOTICE

This notice explains how we collect and handle your personal data.

We are an independent public inquiry and we exercise statutory functions under the Inquiries Act 2005, in the public interest. We investigate the abuse of children in residential and foster care and we will publish a report or reports. We need to process personal data to enable us to carry out our work.

We explain in this notice in general terms how we collect and handle personal data.

How we collect personal data

When someone visits our website we collect information to measure the use of the website. We do not collect information that identifies anyone. Further information is provided on our website:

<https://www.childabuseinquiry.scot/terms-and-conditions/>

If you contact us by telephone, email or letter, or if you use the contact form on our website, we will retain the personal data which you provide to us.

We also recover records from a range of sources, including providers of care, local authorities, the police and the Scottish Government.

What sort of data we collect

We collect data about children in care, data about commission of acts or omissions that constitute abuse and data about the impact of abuse. We also collect and retain contact details.

The records that we recover might include personal data. The records might also include sensitive personal data, relating to criminal convictions, offences, or a person's sex life or sexual orientation.

How personal data is held

We keep your personal data secure and only share it with those who need to see it.

Personal data is held in secure encrypted electronic storage systems that are only accessible by members of the Inquiry team. Any hard copy information is held in secure conditions within premises to which members of the public do not have access.

All personal data we receive is handled fairly and lawfully in line with data protection legislation.

Who will personal data be shared with

We may have to disclose personal data, on a confidential basis, to organisations which provided residential care or people named as abusers, to organisations which hold records which could assist the Inquiry with its investigations, to experts or to the police.

Data controller

The Secretary to the Inquiry is our “data controller”. This means that she is responsible in law for all our information - how it is held and how it is used or destroyed.

Each year the Inquiry registers with the Information Commissioner – who supervises the Data Protection Act in the UK. A copy of our current registration certificate is available here: <https://www.childabuseinquiry.scot/key-documents/ico-registration/>.

Data retention

If you contact us by telephone, email or letter during the Inquiry, we will retain the personal data which you provide to us. We will do so solely to enable us to carry out our work. We will generally retain information for the duration of the Inquiry.

We are required to transmit certain records, including personal and sensitive personal data, to the Keeper of the Records of Scotland at the end of the Inquiry.

The legal basis for processing personal data

We process personal data lawfully in compliance with the General Data Protection Regulation (‘GDPR’) and all other UK data protection legislation.

Personal data

Personal data is processed because the processing is necessary to enable us to carry out our work, which is a task carried out in the public interest.

Sensitive personal data

Sensitive personal data is processed because the processing is necessary for reasons of substantial public interest, and because processing is necessary for the exercise of a statutory function, in this case the Chair's functions under the Inquiries Act 2005.

Your personal data

We process personal data that we hold as a result of or for the purposes of our investigations for special purposes, and so we do not need to tell you that we are processing your personal data and we do not need to give you access to it.

Contact and complaints

If you wish to contact us about the terms of this privacy notice, please write to information@childabuseinquiry.scot

If you wish to make a complaint about how the Inquiry has handled your personal data, you can contact the Information Commissioner's Office online at: <https://ico.org.uk/concerns/getting/>, by calling their helpline on 0303 123 1113 or by writing to them:

UK Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF