

Inquiry Protocol for Witness Statements

1. The Inquiry is identifying people from whom it wishes to take evidence in the form of a formal statement. It is expected that all such persons identified will co-operate fully with the Inquiry and make themselves available for interview, and to give evidence at a hearing where that is considered appropriate. The Inquiry Chairman has powers under section 21(2)(a) of the Inquiries Act 2005 to compel witnesses to provide evidence to the Inquiry in the form of written statements where the voluntary co-operation of a witness is withheld.

Statement Taking

2. All individuals from whom a formal statement is required will be contacted by the Inquiry's Witness Liaison Manager in order to make an appointment for them to be seen and interviewed by a member of the Inquiry team. The appointment will be confirmed by letter and will provide the name of the person who will be conducting the interview. Before the date of the appointment the witness will be provided with an indication of the issues about which he/she will be interviewed, along with copies of any documents to be referred to during the course of the interview.

3. Formal statements will be taken by a member of the Inquiry team and appointments for interview will either be at the Inquiry offices in Edinburgh, or at the witness's place of work or home, or if necessary at an alternative venue, if that is more convenient. However in exceptional circumstances where it is not feasible for a member of the Inquiry team to meet a witness, for example if the witness is abroad and unlikely to return to the UK for the purpose of an interview, alternative arrangements may need to be made.

4. With the witness's agreement the statement may be taken using a tape recorder. Any notes or tape recordings of the interview will be destroyed once the witness statement has been agreed and signed.

5. Following the interview a full statement recording the witness's evidence will be prepared by the person who conducted the interview. The witness will be given the opportunity to review the statement and suggest any changes before being asked to sign it. As the signed written statement of a witness may be the only evidence available to the Inquiry from that witness, it is important that it reflects accurately the entirety of his or her relevant evidence.

6. Once signed the witness statement will be made available to Interested Parties participating in the public hearings after redaction (removal) of personal information, such as private addresses, telephone numbers or other contact details, other than the name and, where relevant, the occupation of the witness. In due course all redacted witness statements will be put into the public domain and published on the Inquiry's website.

Legal Representation

7. A witness may have a lawyer or another person of their choice present when giving a statement. Where a witness has advised the Secretary to the Inquiry that he or she has appointed a qualified lawyer to represent him/her at the meeting, the Chairman must recognise that lawyer as the witness's legal representative for the Inquiry, and the Inquiry team will communicate thereafter with the legal representative rather than the witness in person.

8. A witness asked to provide a statement, who intends to be accompanied by a lawyer and who intends to seek an award of funding for his/her legal representation should make an application for an award to the Inquiry team as soon as possible. The Inquiry will not pay for any work done by a witness's lawyer if that work was done before an award of funding was made by the Inquiry. Any witness who intends to seek such an award of funding should refer to **Inquiry Procedure Direction No 3 – Applications for legal representation at public expense** (issued on 21st January 2015). Procedures Directions can be found on the Inquiry website – www.edinburghtraminquiry.org

Oral Evidence

9. Counsel to the Inquiry will consider all of the signed statements obtained from witnesses. In many cases the statement will be sufficient and will be the only evidence of that witness available to the Inquiry. The evidence contained in the statement will be evaluated in the same way as all other evidence. Accordingly not all witnesses who provide statements will necessarily be required to give oral evidence at a hearing.

10. All witnesses the Inquiry intends to call to give oral evidence will be notified in advance of the hearing date. A list of witnesses the Inquiry intends to call will be made available to Interested Parties and their legal representatives in due course.

Date of commencement

11. This Protocol supersedes the Protocol for Witness Statements dated 2 June 2015 and is effective from the day after its date and will remain in force until it is revoked or varied.

Enquiries

12. All enquiries about this notice should be referred to:

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Dated: 26 January 2016