

Public Inquiries – FAQs

Public inquiries are major investigations convened by a government minister to prevent the recurrence of an event or set of events which caused major public concern.

These frequently asked questions may provide some guidance on certain queries you have but feel free to contact us if you would prefer to discuss your specific situation.

Q Who does what at a Public Inquiry?

The Chair

The chair is usually a Judge or a recently retired Judge. The Chair determines the rules and has ultimate responsibility for the conduct of the inquiry. The Chair may be assisted by Panel Members and may appoint expert witnesses to assist the Inquiry. It is the role of the Chair to publish a final report setting out the findings and recommendations of the Inquiry.

Counsel to the Inquiry

Counsel to the Inquiry is usually a Senior Advocate (QC) who is appointed as main adviser to the Inquiry. There may be more than one Counsel to the Inquiry. Counsel to the inquiry will usually be assisted by a team of junior counsel. Counsel's role is to question witnesses called to give oral evidence. In addition, they ensure the independence of the Inquiry and that it complies with the Terms of Reference.

Solicitor to the inquiry

The Solicitor to the Inquiry is appointed by the Chair. There is often a senior solicitor in charge of a team of solicitors. Their role includes assisting with the drafting of the Terms of Reference, formulating the procedures and protocols that will govern the Inquiry and then gathering and reviewing evidence. They are responsible for taking and drafting witness statements and for liaising with Core Participants and their Legal Representatives. They will undertake research on behalf of the Inquiry and assist the chair in drafting the final report.

Core Participant

Unlike 'ordinary' witnesses who may be asked to give evidence to an inquiry, core participants can usually:

- make opening and closing submissions;
- have access to documents and witness statements before they are made public;
- apply to question witnesses at inquiry hearings; and
- obtain a copy of the inquiry's report before it is made public.

Legal Representative

A Legal Representative is a lawyer or advocate instructed on behalf of a Core Participant. Legal Representatives represent their client at the Inquiry. Although it is rare for Legal Representatives to question witnesses directly they can suggest a line of questioning to Counsel to the Inquiry to put to witnesses. They can address the Inquiry in relation to matters arising during the course of the hearings. In certain circumstances the Inquiry will provide funding for the instruction of Legal Representatives.

Q What is a Core Participant?

A The chair may designate a person or organisation as a “core participant”. A person can either apply for Core Participant status or can agree to being designated a Core Participant by the Chair.

Core Participants may have been directly involved in the matters which the inquiry is investigating. They may have a significant interest in the subject matter of some aspect of the inquiry or the findings of the Inquiry as whole. Core Participant status will usually be given to a person who may be subject to explicit or significant criticism during the inquiry proceedings or in the report.

Core Participants are granted certain rights. They are entitled to appoint a legal representative. They receive advance notice of evidence before publication. Legal Representatives of Core Participants can submit lines of questioning to be put to witnesses giving oral evidence. Legal Representatives may be given the opportunity to make opening or closing statements on behalf of Core Participants. Core Participants also have the right to see the final report before its publication.

Q How do I become a Core Participant?

A A party must apply to become a core participant. The inquiry may invite those that it considers have played a key role in the matters being looked at to apply for Core Participant status. There is no obligation upon an individual or organisation to accept this invitation. Not all applications will be granted core participant status. When deciding an application, the chair will take into account whether the applicant:

- played a direct and significant role in relation to the matters to which the inquiry relates;
- has a significant interest in an important aspect of the matters to which the inquiry relates; or
- may be subject to criticism during the inquiry proceedings or in any report published by the inquiry.

Q How is the evidence of witnesses taken?

A The Chair of the Inquiry will decide how the evidence of witnesses is to be taken. The Inquiry may require a person to give evidence by way of a written statement. If the subject matter of their evidence is of particular importance to the Inquiry, then witnesses may be required to attend to give evidence in person. Where an inquiry is being held on a statutory basis, it is a criminal offence, without reasonable excuse, to fail to give evidence at the inquiry, to provide a witness statement or to produce documents.

Q What are the procedures and protocols at an inquiry?

A The Chair has discretion as to what procedure should be produced and followed. Protocols are produced to provide structure to the inquiry, and to ensure that participants have a clear understanding of how the inquiry will be conducted. The objective of the procedure is to

ensure that the inquiry is conducted fairly and without unnecessary cost. The procedure will typically involve the following stages:-

- Drafting Protocols
- Obtaining and securing evidence
- Taking witness statements
- Opening statements for Core Participants
- Hearings - oral evidence & written statements
- Closing Statements for Core Participants
- Publication of Report and recommendations

Q How are the findings of the inquiry made public?

A The final stage of the process is the preparation of the Report setting out the findings, conclusions and recommendations. A copy of the report is made available on the inquiry's website to allow members of the public and other interested parties to access it.

The Report cannot make a finding of individual civil or criminal liability. However, the contents of the Report could result in criminal or civil proceedings being raised against an individual or organisation.

The report is then laid before parliament at which point the process comes to an end. The recommendations have no legal effect and are non-binding. It is then up to the Government to decide whether or not to implement any of the recommendations made by the Inquiry.

For further guidance and support, you can contact:

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