

The Fingerprint Inquiry | Scotland

PROVIDING A WITNESS STATEMENT

At the procedural hearing on 21 November 2008, Senior Counsel to the Inquiry intimated that work would shortly begin on identifying those persons who may have evidence relevant to the Inquiry (i.e. Inquiry witnesses). It was also stated that the Chairman wishes the evidence of Inquiry witnesses initially to be in the form of a written statement which will be taken by the Inquiry team.

The Inquiry team have now begun the process of contacting Inquiry witnesses (or their recognised legal representatives, where appropriate) with a view to arranging an appointment to take the individual's statement. It is expected that this process will continue during January 2009 and beyond.

Here is some more information about the Inquiry's intended approach to the exercise of taking witness statements.

1. General

The Inquiry is an inquisitorial investigation, as compared to the 'adversarial' proceedings in, for example, a court case. This inquisitorial ethos underpins the Inquiry's approach to the statement taking exercise.

The Chairman has stated that he intends the Inquiry to be as thorough as possible, with all who have been involved feeling that they have been given a full and fair hearing. He has asked for the co-operation of all those who may be able to make a contribution.

It is hoped that each witness will work with the Inquiry team to produce his or her best recollection of events, (unaided by reference to any previous statements that witness may have made, where possible).

A member of the Inquiry team will contact every individual identified as an Inquiry witness and make an appointment for a meeting with the witness to take a statement. Witnesses will be given a general indication at that time of the issues which they will be asked about in giving their statement.

At the start of the meeting, it is intended that the statement taker will ask the witness to narrate all he or she can remember about a particular subject. The witness may then be asked some specific questions.

These meetings may be lengthy in some cases, and though the statement taker will make regular breaks, if the witness feels the need to break at any time, he or she should simply inform the statement taker. Similarly, if a witness has any accessibility requirements, he or she should inform the Inquiry team or statement taker who will endeavour to make suitable provision for this.

After the meeting, the statement taker will prepare a written statement of the witness' evidence given at the meeting, which will be sent to the witness to consider. The witness will be able to make any changes he or she considers appropriate. Once he or she is satisfied that the statement is a truthful and accurate reflection of his or her evidence, the witness will be asked to sign the statement to confirm that fact.

2. Accompanying person

If a witness wishes to have a lawyer, or another person, present when giving a statement, this is acceptable. Where the witness has appointed a qualified lawyer to act on his or her behalf, then the Chairman must recognise that lawyer as the witness' recognised legal representative for the inquiry. So the Inquiry team need from the witness the contact details of the lawyer who will be present in order that he or she can be so recognised.

The Inquiries Act 2005 and the Inquiries (Scotland) Rules 2007 allow for the possibility of an award of public funding from the Inquiry in respect of expenses relating to legal representation. In order to obtain an award of funding, an applicant must meet certain qualifying criteria and any award will be subject to certain conditions. The relevant application form and accompanying notes for applicants are available on the Inquiry website by following this link:

<http://www.thefingerprintinginquiryscotland.org.uk/inquiry/31.html>.

A person who has been asked to provide a statement and who intends to be accompanied by a lawyer and to seek an award of funding for legal representation should contact the Inquiry team **as soon as possible** as the costs of work done by the lawyer in advance of an award will **not** be paid.

3. Consequences of not complying with a request to provide a statement

Anyone who is asked to provide a statement but who considers that he or she is not able to do so, or that it is not reasonable to require him or her to do so, should contact the Inquiry in writing as soon as possible, setting out the situation.

The Chairman will consider any such response and, having regard to the public interest in the information in question being obtained and the likely importance of the information to the Inquiry, decide whether to revoke or amend the request for a statement, or to reiterate the request. He also has powers to require someone to provide evidence, and it is an offence, without reasonable excuse, to refuse.

4. Handling and disclosure of witness statements

It is intended that witness statements will be shared with Core Participants in the Inquiry on a confidential basis in advance of the hearings and will generally be put into the public domain and published on the Inquiry website, in due course. However, at the Chairman's discretion, some material may not be made publicly available, for example when dealing with confidential or sensitive information, or when consent to disclosure has not been given by the affected parties.

Private addresses, home telephone numbers, home contact details and other such information (other than the name and designation of the witness) will not normally form part of the witness statement.

Any witness who considers that he or she may be unable to comply with these proposed arrangements should make this known to the Inquiry as soon as possible. All representations received by the Inquiry will be considered and a decision communicated in due course.

5. Giving oral evidence

There may be some witnesses whose evidence is uncontroversial and who do not require to give oral evidence at an Inquiry hearing. For those witnesses, it is intended that the signed written statement will be accepted as his or her evidence. Where a witness is required to appear at an Inquiry hearing, the statement will form part of that witness' evidence, supplemented by the evidence he or she gives at the hearing. Any witness who is required to attend a hearing to give evidence will be notified, so far as possible, a few weeks in advance. Inquiry hearings will be in Maryhill, Glasgow.

6. Travel and subsistence claims

Witnesses may be eligible for compensation in respect of loss of time and/or reimbursement of travel and subsistence expenses incurred in attending or otherwise in relation to the Inquiry. Detailed guidance and application forms for such awards are available from the Inquiry website by following this link:

<http://www.thefingerprintinquiryscotland.org.uk/inquiry/31.html>

7. Queries

Any queries about witness statements should be directed to **Deborah Blair, Assistant Inquiry Solicitor**, or **Lynne Allan, Witness Liaison Manager**, via the e-mail address below.

info@thefingerprintinquiryscotland.org.uk

Alternatively, you can contact us by telephone on 0131 528 5260.