

The Fingerprint Inquiry | Scotland

THE INQUIRY HEARINGS - PROCEDURES

1. This is a public Inquiry. It aims to be as open, accessible and transparent as possible.
2. The hearings are being designed
 - to deal with the issues in the most effective and efficient way ensuring that all relevant issues are publicly explored
 - to ensure that the material on the website allows the public to be kept as fully informed as possible as the Inquiry proceeds
 - to ensure that those who are witnesses are afforded a fair opportunity to give their evidence
 - to ensure that core participants are given a fair opportunity, commensurate with the need for hearings to progress efficiently and with all reasonable speed, to participate in the process.

Access

3. The Inquiry anticipates that all the hearings will be in public. If, in exceptional circumstances, a decision is taken to hold any part of the hearings other than in public, that decision will only be made following consideration and determination by the Inquiry Chairman and following an application in public.
4. Representatives of the media are encouraged to attend the hearings.
5. The Inquiry has arranged for the proceedings to be noted contemporaneously in electronic form and transcripts published on the Inquiry website at the end of each day.
6. At certain stages of the Inquiry the Chairman may decide to permit filming or photography of some of the proceedings. For example he has decided to allow television cameras to film his opening remarks on 2 June. Apart from this, broadcasting or other recording of the proceedings is not permitted.
7. There is normally no restriction on witnesses sitting in the hearing room before they give evidence. A core participant or witness may however make a submission to the Chairman that a particular witness should not be permitted to sit in the hearing before he or she gives evidence. The Chairman will consider any such submission and communicate his decision to the parties affected.

Practical arrangements

8. The hearings are being held in Maryhill Community Central Hall, 304 Maryhill Road, Glasgow, G20 7YE. More information about the venue is on the venue section of the Inquiry website.
9. The normal hearing hours will be set out on the website. The Inquiry will normally not sit on a Monday. The opening day of the hearings, on Tuesday 2nd June, starts at 10.30 am.
10. The Inquiry is using a number of electronic systems and aims to minimise the use of paper. Statements and other materials will be used in electronic form so far as possible and viewed on screen at the hearings. Transcripts of evidence will be provided electronically. The method used to produce transcripts allows the Chairman, Inquiry Counsel and the legal representatives of core participants to have instant access to the transcripts electronically and they are able to highlight particular sections and make notes for their own use as the text appears on their screens in real time.
11. In the hearing room, mobile phones must be in silent mode and not used for conversation.
12. There is a café in the building which is open from 9am until 3pm.

Security

13. Except with the Chairman's express permission, no cameras or recording devices are permitted within the building.
14. The use of mobile phones for taking photographs in the building is not permitted.
15. Maryhill Community Central Hall remains open to the public for other purposes than the Inquiry. The Inquiry has the use of certain rooms only. Papers, documents, personal possessions etc should not be left unattended.
16. Certain rooms within the building have been set aside for the use of the Inquiry team, core participants and their representatives and witnesses, and are not accessible to other persons.

Evidence to the Inquiry

17. The evidence gathered by the Inquiry will be presented by Counsel to the Inquiry.
18. The Inquiry has employed a team of statement takers to take statements from witnesses. In advance of giving a statement a witness received a letter from the Inquiry setting out the main topics which it was intended to cover.

19. The witness statements and the documents received by the Inquiry have been analysed by Inquiry Counsel. In his opening statement Senior Counsel to the Inquiry will give an overview of the evidence obtained.
20. Prior to the start of the hearings, core participants and their legal representatives have been provided with the Inquiry Hearings Database of Inquiry material in electronic format, provided they have first signed an appropriate confidentiality undertaking.
21. Core participants and their representatives who have given a confidentiality undertaking have accordingly had an opportunity to consider this Inquiry material in advance of the hearings.
22. This material is in redacted format ie some personal information has been removed for reasons of data protection/fairness/article 8 of the European Convention on Human Rights, and some information not relevant to the inquiry has also been removed. It is in this form that material will be published on the Inquiry website.
23. On application made sufficiently in advance of publication by a core participant and others, the Inquiry will consider proposals for other redactions or for the Chairman to make a restriction order restricting publication of material.

Evidence from witnesses

24. On the Monday of the week when a witness's evidence is expected to be taken by the Inquiry it is intended that his or her witness statement will be published on the Inquiry website. Where a party submits that a statement or part of a statement should not be published he or she must make a submission in writing, within timescales to be notified, prior to that intended publication.
25. Where the content of a witness's statement is uncontroversial that statement will be taken as read ie the witness may not be called to give evidence orally at a hearing at all, or if the witness is called he or she will not be taken through the whole statement line by line by Inquiry Counsel.
26. Oral evidence may be required for example for one or more of the following purposes:
 - to clarify any matters in the statement which are not sufficiently clear
 - to amplify matters in the statement about which further information is required
 - to give the witness the opportunity to address matters raised by other statements or documents, or the oral evidence of other witnesses, which are relevant to his or her evidence
 - to test the accuracy or reliability of any matters in the statement
 - to explore disputes of fact, controversial issues or questions of opinion

- to give a witness the opportunity to respond to potential criticisms to which he or she may be subject in the Inquiry Chairman's Report.
27. The process of deciding upon which witnesses should be called starts with Inquiry Counsel preparing a provisional list of those persons from whom it wishes to receive oral evidence. This list is made available to core participants who have an opportunity to comment upon it and to suggest to Inquiry Counsel the names of other witnesses that they would wish to have called. Final decisions as to which persons should be asked to give oral evidence are for the Inquiry Chairman.
28. Witnesses who are called to give evidence at the hearing will be required to take the oath or affirm that they will tell the truth. They will normally give evidence seated from a witness box near the front of the hearing room.
29. If new matters relevant to the evidence of a particular witness come to light after that witness has given evidence at a hearing, the Inquiry may decide that it is necessary for the witness to be asked about or given the opportunity of responding to those new matters. Such an opportunity may be given by inviting the witness to provide a further statement or inviting that witness to give further oral evidence.

Questioning of witnesses

30. Except in the circumstances outlined below witnesses giving oral evidence will be examined only by Counsel to the Inquiry and by the Chairman. ("Examined" is a legal term for asking witnesses questions.)
31. Anyone having a sufficient interest in the evidence of the witness will be invited to submit to Counsel to the Inquiry, in advance of the witness giving evidence, any line of questioning they wish to have put to the witness.
32. The exceptions are these:
- (i) Where a witness, including a core participant, is being examined the Chairman may direct that their recognised legal representative may examine the witness.
 - (ii) Where a witness has been examined by Counsel to the Inquiry or the Chairman and the evidence of that witness relates directly to the evidence of another witness the witness to whom the evidence relates or their recognised legal representative may apply to the Chairman for permission to examine that witness.
 - (iii) A core participant or their recognised legal representative may apply to the Chairman for permission to examine any witness giving oral evidence.
33. An application under (ii) or (iii) must state:
- (a) the matters or issues in respect of which a witness is to be examined
 - (b) whether the examination will raise new matters or issues

(c) where no new matters or issues are likely to be raised, reasons why an examination should be permitted.

34. The Inquiry Chairman will in each case decide whether to permit such additional questioning and if so any limitations to be imposed.

35. Where a party has a legal representative it is expected that that party's legal representative, not the party, will ask such questions.

36. Where a witness, for whatever reason, is asked to, but does not, attend to give oral evidence in considering what weight, if any, is to be attached to the witness's written statement, the Chairman will keep in mind the fact that the witness has not attended to be questioned and the reason for that. The statement will be considered in the context of any other evidence on the same issue.

Publication

37. In addition to witness statements and transcripts of proceedings at the hearings, other relevant documents, statements and information will be posted on the Inquiry website when the Inquiry Chairman considers it appropriate to do so. Those decisions need to balance the desire to be as open and transparent as possible with other interests involved and the need to act fairly.

38. The Inquiry does not have the resources to provide hard copies of these documents to representatives of the media or others on demand. Limited exception may be made, at the discretion of Inquiry staff, in order to assist journalists reporting the proceedings or for other good reasons.

General

39. Finally, the procedure and conduct of an Inquiry under the Inquiries Act 2005 are to be such as the Chairman may direct, subject to the provisions of the Act and the applicable rules. In order to operate most effectively and most efficiently, an Inquiry such as this needs to operate flexibly. Procedures may need to be adopted, or may need to be adapted, to enable this. The procedures outlined are not intended to cover every eventuality or every procedural issue that will arise. When procedural decisions need to be taken, they will be taken by the Inquiry Chairman with the assistance of the Inquiry legal team and of representations or submissions from others, if the Chairman considers that would be appropriate and desirable.

27 May 2009