STATUTORY RULES OF NORTHERN IRELAND

2013 No. 171

INQUIRY INTO HISTORICAL INSTITUTIONAL ABUSE

The Inquiry into Historical Institutional Abuse Rules (Northern Ireland) 2013

Made - - - -	*24th June 2013*
Coming into operation	*25th July 2013*

The Office of the First Minister and deputy First Minister, in exercise of the powers conferred by section 21 of the Inquiry into Historical Institutional Abuse Act (Northern Ireland) 2013 (**1**), makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Inquiry into Historical Institutional Abuse Rules 2013 and shall come into operation on 25th July 2013.

Interpretation and application

2.—(1) In these Rules—

"the Act" means the Inquiry into Historical Institutional Abuse Act (Northern Ireland) 2013;

"acknowledgement forum" means that part of the inquiry described in the terms of reference as the Acknowledgement Forum;

"applicant" in relation to an award means an applicant for the award and in respect of any time after a determination that the award should be made to him includes the person who submits a bill for any amount pursuant to that determination;

"award" means an award under section 14 of the Act;

"bill" means a claim for any amount in respect of expenses or compensation payable as part of an award;

"core participant" means a person designated as such under rule 5;

"counsel to the inquiry" means the qualified lawyer or lawyers appointed by the chairperson to act as counsel;

(**1**) 2013 c. 2(N.I.)

"designated email address" means the email address notified by a person to a member of the inquiry team, in writing, as the email address to be used for email communication with that person;

"designated fax number" means—

(a) in the case of the inquiry, the fax number notified to witnesses (and their recognised legal representatives, if any) by the secretary to the inquiry, in whatever manner he sees fit, as the number to which faxes should be sent; and

(b) in the case of any other person, the fax number or numbers notified by that person to a member of the inquiry team, in writing, as the number to be used for communication by fax with that person;

"designated postal address" means—

(a) in the case of the inquiry, the address notified to witnesses (and their recognised legal representative, if any) by the secretary to the inquiry, in whatever manner he sees fit, as the address to which correspondence should be addressed; and

(b) in the case of any other person, the address notified by that person to a member of the inquiry team, in writing, as the address to be used for postal communications with that person;

"inquiry record" means all documents that the chairperson of the inquiry determines should form the permanent record of the inquiry's work;

"inquiry team" means—

(a) the inquiry panel;

(b) the secretary to the inquiry;

(c) the solicitor to the inquiry;

(d) the counsel to the inquiry;

(e) assessors; and

(f) any other person engaged (whether as an employee or in any other capacity) to provide administrative, legal or managerial assistance to the inquiry or to assist in any investigations which the inquiry may conduct;

"qualified lawyer" means—

(a) a solicitor or barrister in England and Wales;

(b) a solicitor or advocate in Scotland;

(c) a solicitor or barrister in Northern Ireland; or

(d) a solicitor or barrister in the Republic of Ireland;

"recognised legal representative" means a person designated under rule 6 or 7;

"secretary to the inquiry" means a person appointed by the chairperson to carry out (with the assistance of any deputies that may be appointed) the administration and management of the inquiry;

"solicitor to the inquiry" means the qualified lawyer appointed by the chairperson to act as solicitor;

"specified" means specified in a witness order;

"warning letter" means a letter sent by the chairperson to a person during the course of the inquiry which contains a statement to the effect that it is a warning letter; and

"witness" means any person to whom the inquiry panel has sent a written request for a written statement under rule 9(1).

(2) Rules 9 to 16 and rule 20 do not apply in relation to the acknowledgement forum and, without prejudice to the generality of the foregoing, references to the inquiry proceedings or the inquiry panel in those rules shall be construed accordingly.

3.—(1) Any requirement under these Rules that a document is given or sent to any person by a member of the inquiry team is satisfied by that document being—

(a) delivered in person;

(b) left at the person's designated postal address;

(c) sent to the person's designated postal address by first class post;

(d) faxed to the person's designated fax number; or

(e) subject to paragraph (2), sent by email.

(2) A document may be sent by email to a person's designated email address if the person has informed the secretary to the inquiry in writing that he is willing to accept documents sent by email.

4.—(1) Any requirement under these Rules that a document is given or sent to the inquiry or a member of the inquiry team is satisfied by that document being—

(a) left at the inquiry's designated postal address;

(b) sent to the inquiry's designated postal address by first class post;

(c) faxed from the sender's designated fax number to the inquiry's designated fax number; or

(d) subject to paragraph (2), sent by email.

(2) A document may be sent by email from a person's designated email address if the secretary to the inquiry has informed the person sending the email in writing—

(a) that he is willing to accept documents sent by email;

(b) of the email address to which the document must be sent; and

(c) if the secretary to the inquiry specifies an electronic format for the purpose, the document must be sent in that format.

Core participants

5.—(1) The chairperson may designate a person, body, organisation or institution as a core participant at any time during the course of the inquiry, provided that person, body, organisation or institution consents to being so designated.

(2) In deciding whether to designate a person, body, organisation or institution as a core participant, the chairperson must in particular consider whether—

(a) the person, body, organisation or institution played, or may have played, a direct and significant role in relation to the matters to which the inquiry relates;

(b) the person, body, organisation or institution has a significant interest in an important aspect of the matters to which the inquiry relates; or

(c) the person, body, organisation or institution may be subject to explicit or significant criticism during the inquiry proceedings or in the report, or in any interim report.

(3) A person, body, organisation or institution ceases to be a core participant on—

(a) the date specified by the chairperson in writing; or

(b) the end of the inquiry.

Recognised legal representative

6.—(1) Where a core participant, other than a core participant referred to in rule 7 has appointed a qualified lawyer to act on that person's behalf, the chairperson must designate that lawyer as that person's recognised legal representative in respect of the inquiry proceedings.

(2) Where any other person, body, organisation or institution required or permitted to give evidence or produce documents during the course of the inquiry, has appointed a qualified lawyer to act on that person's behalf, the chairperson may designate that lawyer as that person's recognised legal representative in respect of the inquiry proceedings.

(3) Where a core participant or other person has terminated the appointment of a qualified lawyer who has been designated as recognised legal representative under this rule, that designation shall cease to have effect.

7.—(1) This rule applies where there are two or more core participants or other persons, each of whom seeks to be legally represented, and the chairperson considers that—

(a) their interests in the outcome of the inquiry are similar;

(b) the facts they are likely to rely on in the course of the inquiry are similar; and

(c) it is fair and proper for them to be jointly represented.

(2) The chairperson must direct that those persons shall be represented by a single recognised legal representative or a single team of recognised legal representatives, and the chairperson may designate one or more qualified lawyers for that purpose.

(3) Subject to paragraph (4), any such designation must be agreed by the persons intended to be represented pursuant to it.

(4) If no agreement on a designation is forthcoming within a reasonable period, the chairperson may designate an appropriate lawyer who, in his opinion, has sufficient knowledge and experience to act in this capacity.

(5) The chairperson may vary or revoke any direction or designation under this rule.

8. Nothing in rules 6 or 7 prohibits a person referred to in rule 7(1) from appointing a legal team to assist his recognised legal representative in the discharge of the recognised legal representative's functions.

Evidence

9.—(1) The inquiry panel must send a written request for a written statement to any person from whom the inquiry panel proposes to take evidence.

(2) The inquiry panel must send a written request to any person that it wishes to produce any document or any other thing.

(3) The inquiry panel may make a written request for further evidence, being either a written statement or oral evidence.

(4) Any request for a written statement must include a description of the matters or issues to be covered in the statement.

Oral evidence

10.—(1) Where the chairperson so directs, oral evidence may be given at an inquiry hearing by live television link or other such arrangement by which the witness is able to be seen and heard in the proceedings and is able to see and hear the proceedings while at a place outside the room where the hearing is held.

(2) Subject to paragraphs (3) to (6), where a witness is giving oral evidence at an inquiry hearing, only counsel to the inquiry and the inquiry panel may ask questions of that witness.

(3) Where a witness, whether a core participant or otherwise, has been questioned orally in the course of an inquiry hearing pursuant to paragraph (2), the chairperson may direct that the recognised legal representative of that witness may ask the witness questions.

(4) Where—

(a) a witness other than a core participant has been questioned orally in the course of an inquiry hearing by counsel to the inquiry, or by the inquiry panel; and

(b) that witness's evidence directly relates to the evidence of another witness,

the recognised legal representative of the witness to whom the evidence relates may apply to the chairperson for permission to question the witness who has given oral evidence.

(5) The recognised legal representative of a core participant may apply to the chairperson for permission to ask questions of a witness giving oral evidence.

(6) When making an application under paragraphs (4) or (5), the recognised legal representative must state—

(a) the issues in respect of which a witness is to be questioned; and

(b) whether the questioning will raise new issues or, if not, why the questioning should be permitted.

(7) The chairperson may require the application under paragraphs (4) or (5) to be made in writing a reasonable period in advance of the date on which the witness in question is due to give evidence.

(8) For the purposes of paragraph (1) any impairment of sight or hearing is to be disregarded.

11.—(1) The secretary to the inquiry shall give to each core participant and their recognised legal representative notice of the date on which any witness is due to give evidence.

(2) Where any other person who is—

(a) a core participant; or

(b) the recognised legal representative of a core participant

wishes that a particular question is put to a witness, that person must submit the question to the counsel to the inquiry not less than one working day before the date on which the witness is due to give evidence.

(3) Notwithstanding paragraph (2) the chairperson may authorise any person to submit a question later than the time specified therein if he is satisfied that there is good reason for the question not being submitted earlier.

(4) Counsel to the inquiry shall decide whether and if so how any question submitted under this rule shall be asked.

(5) The chairperson may, however, direct the counsel to the inquiry—

(a) to ask or refrain from asking any question submitted under this rule;

(b) as to how any such question is to be asked.

Opening and closing statements

12.—(1) The recognised legal representative of a core participant may, with the consent of the chairperson—

(a) make an opening statement to the inquiry panel at the commencement of the first of any oral hearings, and

(b) make a closing statement to the inquiry panel.