

The Independent Jersey Care Inquiry (the “Inquiry”)

Inquiry Protocol: Oral Hearings

Scope

1. This protocol establishes how the Inquiry’s oral hearings will be scheduled and conducted, to ensure that:
 - 1.1 Interested Parties and Accredited Lawyers understand what is expected of them during the hearings;
 - 1.2 Witnesses giving oral evidence to the Inquiry know what to expect; and
 - 1.3 The public understands how the Inquiry will gather oral evidence.

Set up of the hearings

2. In accordance with Standing Order 147(2), the Inquiry’s proceedings shall be held in public unless the Inquiry, in the interests of justice or the public interest, decides that all or any part of the proceedings shall be in private. The Inquiry can also order that evidence given publicly can be done so on an anonymous basis – see Inquiry Protocol: Protective Measures.
3. The following will apply to all public oral hearings:
 - 3.1 The oral hearings will normally take place at 11 Seaton Place, St Helier, Jersey, JE2 3QL, Channel Islands, save for in exceptional circumstances;
 - 3.2 The public and press will be able to attend, subject to the capacity of the venue and any instruction or provision that the Inquiry may give or make in relation to evidence given in private or anonymously;
 - 3.3 Limited television screens will be available in the hearing room for the public to view the evidence given;
 - 3.4 Photography shall not be permitted within the venue premises. Mobile telephones shall be switched off in the hearing room;
 - 3.5 No recording or broadcast of proceedings shall be permitted; and
 - 3.6 In the event of a technical breakdown of television screens or other technical equipment hearings will continue, unless the Inquiry decides to adjourn to allow the technical faults to be remedied.

Private hearings

4. In accordance with Standing Order 147, the Inquiry has the power to:
 - 4.1 Exclude any person or class of persons from the public hearings in order to maintain order, for the proper conduct of the proceedings or for the protection of property or of any person referred to in the proceedings; and
 - 4.2 Hear any part of the proceedings in private, if it considers this would be in the interests of justice or the public interest.
5. The Inquiry is committed to being open to the public. Therefore, as a general rule, all evidence will be heard in public. However, there may be circumstances where the Inquiry considers certain evidence should be heard in private. The Inquiry will decide whether evidence should be heard in private on a case by case basis, and in accordance with the procedure set out at paragraphs 12 to 17 of the Inquiry Protocol on Protective Measures.

Preliminary/other hearings

6. The Inquiry may hold preliminary hearings or other hearings if necessary. Such hearings will normally be held in public.

The oral hearings

7. At the outset of the oral hearings, Inquiry Counsel will make an oral opening statement. This opening statement will include an overview of the Inquiry's work and explain the nature of the evidence which is likely to be considered during the Inquiry's hearings.
8. The Inquiry will also give the Accredited Lawyers of Interested Parties, and any unrepresented Interested Parties, an opportunity to submit written and/or oral opening statements.
9. Following the opening statements, the Inquiry will then start to hear evidence from individual witnesses.
10. Each witness will be required to take an oath or affirmation when giving oral evidence. Each witness will be taken through their evidence by Inquiry Counsel.
11. When a witness is giving oral evidence to the Inquiry, only Inquiry Counsel and the Inquiry Panel may ask questions of the witness.
12. Interested Parties and Accredited Lawyers may send Inquiry Counsel, for their consideration, proposed questions or lines of questioning for a particular witness. The Interested Party or Accredited Lawyer will not be able to ask those questions

of the witness directly. Any proposed questions should be sent in writing to the Solicitors to the Inquiry as soon as possible and no later than 48 hours prior to that witness giving oral evidence. Any questions submitted after this time may not be considered. It is at the discretion of Inquiry Counsel whether any of the questions submitted will be asked and in what form.

13. When the Inquiry's phase of receiving oral evidence has concluded, the Inquiry may give Accredited Lawyers, and unrepresented Interested Parties, an opportunity to submit written and/or oral closing submissions.

Who will give oral evidence?

14. The Inquiry will decide which witnesses will be asked to give oral evidence. Other witness statements given to the Inquiry may be considered by the Inquiry without the witness having to attend in person.

15. Whilst the Inquiry hopes that oral evidence will be provided voluntarily, the Inquiry has the power to order a witness to give oral evidence at the Inquiry's hearings, such rights being set out in the States of Jersey (Powers, Privileges and Immunities) (Committees of Inquiry) (Jersey) Regulations 2007. Failure to comply with such an order constitutes an offence. The Inquiry anticipates that witnesses will attend without the Inquiry needing to use such powers (formally referred to as a summons).

16. If new matters relevant to the evidence of a particular witness come to light after that witness has given oral evidence to the Inquiry, the Inquiry may decide that it is necessary for the witness to be asked about those new matters. On occasion, this may mean that a witness may need to be recalled to give evidence.

Timetabling

17. From time to time, the names of the witnesses giving oral evidence to the Inquiry and a timetable of when they will give their evidence will be published on the Inquiry's website. If a witness has been granted anonymity, their name will not be published. Witnesses should inform the Inquiry as soon as possible of their dates of unavailability once they are asked to give oral evidence.

18. The timetabling of the Inquiry's oral hearings will be published in advance on the Inquiry's website.