
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;

“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.

(2) A core participant who does not have a recognised legal representative may, with the consent of the chairperson, make the opening and closing statements referred to in paragraph (1).

Disclosure of potentially restricted evidence

13.—(1) In this rule—

- (a) “potentially restricted evidence” means any evidence which is in the possession of the inquiry panel, or any member of the inquiry panel, and which is the subject of a relevant application which has not been determined or withdrawn;
- (b) “relevant application” means an application which is—
 - (i) made by any person that the chairperson exercise his discretion under section 8(2) of the Act; or
 - (ii) made by any person that evidence or documents should be withheld on grounds of public interest immunity,and which entails the withholding of evidence from the public.

(2) Subject to paragraph (3), potentially restricted evidence is subject to the same restrictions as it would be subject to if the order sought in the relevant application had been made.

(3) Where the conditions in paragraph (4) are satisfied, the chairperson may disclose the potentially restricted evidence to a person who would not otherwise be permitted to see it.

(4) The conditions are that—

- (a) the chairperson considers that disclosure to an individual is necessary for the determination of the relevant application; and
- (b) the chairperson has afforded the opportunity to—
 - (i) the person providing or producing the evidence to the inquiry panel; or
 - (ii) any other person making the relevant application,to make representations regarding whether disclosure to that individual should be permitted.

(5) Any person who is shown potentially restricted evidence pursuant to paragraph (3) shall owe an obligation of confidence to the person who provided or produced the evidence to the inquiry.

(6) A breach of the obligation referred to in paragraph (5) is actionable at the suit of the person to whom the obligation is owed, subject to the defences applying to actions for breach of confidence.

Warning letters

14.—(1) The chairperson may send a warning letter to any person—

- (a) he considers may be, or who has been, subject to criticism in the inquiry proceedings; or
- (b) about whom criticism may be inferred from evidence that has been given during the inquiry proceedings; or
- (c) who may be subject to criticism in any report of the inquiry.

(2) The recipient of a warning letter may disclose it to his recognised legal representative.

(3) The inquiry panel must not include any explicit or significant criticism of a person in any report of the inquiry, unless—

- (a) the chairperson has sent that person a warning letter; and
- (b) the person has been given a reasonable opportunity to respond to the warning letter.

15.—(1) Subject to paragraphs (2), (3) and (4), the contents of a warning letter are to be treated as subject to an obligation of confidence owed—

- (a) separately by each member of the inquiry team to the recipient of the warning letter;
- (b) by the recipient to the chairperson; and
- (c) by the recipient’s recognised legal representative to the chairperson (where the recipient has disclosed the letter under rule 14(2)).

(2) The obligation of confidence may be waived in writing at any time by the chairperson or, as the case may be, by the recipient of the warning letter.

(3) The inquiry panel’s obligation of confidence arising under this rule ends when the inquiry report is delivered in accordance with section 5(1) of the Act.

(4) All other obligations of confidence arising under this rule end when the inquiry report is published.

(5) A breach of the obligation referred to in paragraph (1) is actionable at the suit of the person to whom the obligation is owed, subject to the defences applying to actions for breach of confidence.

16.—(1) Subject to paragraphs (3) and (4), the warning letter must—

- (a) state what the criticism or proposed criticism is;
- (b) contain a statement of the facts that the chairperson considers substantiate the criticism or proposed criticism; and
- (c) refer to any evidence which supports those facts.

(2) The chairperson may provide copies of the evidence referred to with the warning letter, if he considers it appropriate to do so.

(3) Where the warning letter is sent to a person under rule 14(1)(b)—

- (a) the requirements of paragraph (1) do not apply, but
- (b) subject to paragraph (4), the letter must refer to the evidence from which criticism could be inferred.

(4) Paragraphs (1) to (3) are subject to any restrictions on the disclosure of evidence, documents or information pursuant to sections 7 and 8 of the Act, or resulting from a determination of public interest immunity.

17. In determining the weight to be accorded to any evidence, the inquiry panel must disregard the fact that a warning letter was, or was not, sent to any person before the determination is made.

Reports

18.—(1) Following delivery of any report of the inquiry to the First Minister and deputy First Minister, but prior to publication, the chairperson must give a copy of the version of the report which is to be published, to—

- (a) each core participant; and
- (b) to their recognised legal representative, if any.

(2) The contents of any report of the inquiry are to be treated, until the report has been published by the chairperson, as subject to an obligation of confidence owed by each person, who pursuant to paragraph (1) has received a copy of the report, to the chairperson.

(3) A breach of the obligation referred to in paragraph (2) is actionable at the suit of the chairperson, subject to the defences applying to actions for breach of confidence.

Evidence provided to the acknowledgement forum

19.—(1) The evidence given to the acknowledgement forum by any witness is to be treated as subject to an obligation of confidence owed separately by each member of the inquiry team to that witness.

(2) The evidence given to the acknowledgement forum must not be disclosed—

- (a) in the proceedings of any other part of the inquiry unless the chairperson so orders; or
- (b) in any criminal or civil proceedings in Northern Ireland unless it is necessary to avoid a breach of convention rights (within the meaning of the Human Rights Act 1998)(2).

(3) Where a witness gives evidence to the acknowledgement forum, the restrictions in paragraph (2) shall not prevent—

- (a) the witness separately giving all or any part of that evidence to any other part of the inquiry; or
- (b) the disclosure in any criminal or civil proceedings in Northern Ireland of the evidence referred to in sub-paragraph (a).

Records management

20. Subject to the legal rights of any person—

- (a) during the course of the inquiry, the chairperson must have regard to the need to ensure that the record of the inquiry is comprehensive and well-ordered; and
- (b) at the end of the inquiry, the chairperson must transfer custody of the inquiry record to the Public Record Office Of Northern Ireland.

21.—(1) Any records of the inquiry which consist of evidence given to the acknowledgement forum (but not any evidence referred to in rule 19(2)(a)) shall be destroyed in such manner and at such time as the chairperson may direct.

(2) In exercising his power under paragraph (1), the chairperson shall ensure that any records to which that paragraph relates are destroyed before the transfer mentioned in rule 20(b).

Application for an award

22.—(1) A person may apply at any time in writing to the chairperson for an award.

(2) Where the application relates to expense to be incurred in respect of legal representation, the application must state—

- (a) in respect of each qualified lawyer in relation to whom the application relates—
 - (i) the nature and estimated duration of the work of that lawyer in respect of which the award is sought;
 - (ii) whether that lawyer is a recognised legal representative;
 - (iii) which of sub-paragraphs (a) to (d) of rule 24(2) applies to that lawyer;
 - (iv) the proposed hourly rate to be applied in his case;
- (b) in respect of each paralegal or trainee solicitor—
 - (i) the nature and estimated duration of the work of that person in respect of which the award is sought;
 - (ii) which recognised legal representative that person is to assist; and

- (iii) the proposed hourly rate to be applied in his case;
 - (c) any other amounts which the person anticipates claiming in relation to legal representation.
- (3) An application for an award and any bill submitted under rule 28 must include or be accompanied by such other information and such evidence in support of it as the chairperson may require.
- (4) Where the chairperson does not consider that the information and evidence provided in accordance with paragraph (3) is sufficient to enable a decision to be made in relation to any application or bill, he shall notify the person who submitted the application or the bill, as the case may be, of the fact and that person shall, within such time as the chairperson may require, provide such further information or evidence as may be specified in the notice.

Determination of whether an award should be made

23.—(1) An award shall only be made in accordance with the pre-authorisation procedures set out in these Rules.

(2) Subject to section 14(4) of the Act (conditions or qualifications determined by OFMDFM), the chairperson must take into account the general criteria set out in paragraph (3) when determining whether an award should be made.

(3) The general criteria are—

- (a) the financial resources of the applicant; and
- (b) whether making an award is in the public interest.

(4) The chairperson shall not make an award to any residential institution by way of compensation for loss of time.

(5) The chairperson shall not make an award in respect of expenses to any residential institution except—

- (a) where that institution does not have the resources needed to meet in full the expenses properly incurred, or to be incurred, in attending, or otherwise in relation to, the inquiry; or
- (b) where the cost of meeting those expenses in full would cause hardship to an individual; or
- (c) in other exceptional circumstances.

(6) The chairperson shall not make an award in respect of legal representation for any individual in circumstances where a residential institution has agreed to meet those expenses or where it is reasonable, in all the circumstances of the case, to expect a residential institution to do so.

(7) Where the chairperson makes an award in respect of the expenses of a residential institution on the grounds set out in paragraph (5)(a) or (b) but the institution has the resources needed to meet part of the expenses properly incurred, or to be incurred, in attending or otherwise in relation to the inquiry or can meet part of the costs of those expenses without causing hardship to an individual (as the case may be) that award shall only be in respect of the other part of the expenses.

(8) The chairperson shall not make an award in respect of legal representation provided by any person other than the recognised legal representative or a paralegal or trainee solicitor assisting that legal representative.

(9) For the purposes of this Rule, “residential institution” means an institution for the purposes of the terms of reference of the inquiry.

Determination conditions in respect of awards for amounts to be incurred in respect of legal representation

24.—(1) Where the chairperson has determined an award for amounts to be incurred in respect of legal representation should be made, the determination of the application must set conditions, including but not limited to the following, that is to say—

- (a) the nature and scope of the work to be funded;
 - (b) the hourly rates which will be paid shall not exceed the amounts specified in paragraph (2);
 - (c) the upper limit or limits on the sums or number of hours which will be paid;
 - (d) the dates and times for which attendance at the inquiry by recognised legal representatives, paralegals or trainee solicitors will be funded;
 - (e) the representatives, paralegals or trainee solicitors whose attendance on any day will be funded;
 - (f) the frequency with which bills must be submitted to the solicitor to the inquiry; and
 - (g) the form in which bills must be submitted to the solicitor to the inquiry.
- (2) It is a condition of any award that the maximum hourly rates for counsel and solicitors shall be:
- (a) Senior Counsel £200.00
 - (b) Junior Counsel or solicitor advocate £100.00
 - (c) Solicitor (Partner) £146.00
 - (d) Solicitor (Assistant) £130.00
 - (e) Paralegal or Trainee Solicitor £65.00

Determination conditions in respect of awards for amounts to be incurred in respect of compensation for loss of time

25. Where the chairperson has determined an award for amounts to be incurred in respect of compensation for loss of time, the determination must set conditions, including but not limited to—

- (a) the upper limit or limits on the amounts which will be paid;
- (b) the form in which bills must be submitted to the solicitor to the inquiry; and
- (c) the supply of such documentary evidence as the solicitor to the inquiry considers necessary.

Determination conditions in respect of awards for other amounts to be incurred

26. Where the chairperson has determined an award for amounts to be incurred other than under rules 24 or 25, the determination must set conditions, including but not limited to—

- (a) the upper limit or limits on the sums which will be paid;
- (b) a requirement that the applicant provide evidence that the expenditure has been incurred; and
- (c) the form in which bills must be submitted to the solicitor to the inquiry.

Notification or referral following determination of whether an award should be made

27. Where the chairperson has determined that an award should be made, the solicitor to the inquiry must send the determination to the applicant and his legal representative, if he has one.

28. Where—

- (a) the chairperson has determined that an award should be made; and

(b) the determination has been sent to the applicant under rule 27,

the applicant may in accordance with any conditions determined under rules 24 to 26 or determined by OFMDFM under section 14(4) of the Act submit bills in respect of any expenses incurred or compensation claimed to the chairperson who must refer the bills to the solicitor to the inquiry for an assessment of the amount to be paid in respect of the bills as soon as practicable.

Assessment of an award by the solicitor to the inquiry

29.—(1) The solicitor to the inquiry must make an initial assessment of the amounts to be paid in respect of any bill within twenty-one days of the referral by the chairperson.

(2) Where the solicitor to the inquiry determines that the full amount applied for by the applicant in the bill should be paid, the initial assessment of the amount of the bill is also the final assessment.

(3) If the applicant disagrees with the initial assessment of the amount to be paid in respect of any bill, or a part of it, he must notify the solicitor to the inquiry of this as soon as reasonably practicable, and in any event within twenty-one days of the date on which the initial assessment of the amount is sent to the applicant.

(4) Where the applicant has not responded within twenty-one days of the date the initial assessment of the amount to be paid in respect of the bill being sent to the applicant, the solicitor to the inquiry must issue the final assessment.

(5) An initial or final assessment made by the solicitor to the inquiry must be in writing and sent to the applicant and his recognised legal representative, if he has one.

Criteria for assessing amount of initial assessment

30.—(1) When assessing the amount to be awarded pursuant to a bill in respect of compensation for loss of time, the solicitor to the inquiry must have regard to—

- (a) actual sums lost by the applicant as a result of attending the inquiry; or
- (b) if no such sums can be identified, such other amount as the solicitor to the inquiry considers proportionate and reasonable.

(2) When assessing the amount to be awarded pursuant to a bill in respect of expenses, the solicitor to the inquiry must have regard to all circumstances and to whether the expenses—

- (a) were proportionately and reasonably incurred; and
- (b) are proportionate and reasonable in amount.

(3) The solicitor to the inquiry must exclude amounts from the initial assessment which do not comply with conditions determined under rules 24 to 26 or determined by OFMDFM under section 14(4) of the Act.

Procedure where initial assessment is not agreed in relation to an award for legal representation

31.—(1) Where—

- (a) notification has been given under rule 29(3); and
- (b) the bill in question relates to amounts incurred in respect of legal representation,

the solicitor to the inquiry must send the applicant, in writing, the points of dispute within twenty-one days of receipt of the notification.

(2) The points of dispute referred to in paragraph (1) must—

- (a) identify each item to which the solicitor to the inquiry objects;

- (b) state the nature of the objection for each item; and
- (c) propose an amount to be allowed for each item in respect of which a reduction is sought.

(3) The applicant must provide a written response to the points of dispute to the solicitor to the inquiry within twenty-one days of the points of dispute having been sent to the applicant.

(4) The solicitor to the inquiry and the applicant may agree to extend the deadlines set out in paragraphs (1) and (3).

(5) Where the solicitor to the inquiry receives a written response under paragraph (3), he must consider the amount to which the response relates and having done so must issue the final assessment of the amount to be paid in respect of the award in question to the applicant within a reasonable time.

Procedure where initial assessment not agreed in relation to an award for sums other than for legal representation

32.—(1) Where—

- (a) notification has been given under rule 29(3); and
- (b) the bill in question does not relate to amounts incurred in respect of legal representation,

the solicitor to the inquiry must reconsider the initial assessment of the amount to be paid in respect of the bill.

(2) Having reconsidered the initial assessment of the amount to be paid in respect of the bill pursuant to paragraph (1), the solicitor to the inquiry must issue the final assessment of the amount of the award to the applicant within a reasonable time.

Review of the amount of an award for legal representation

33.—(1) Where there remains a disagreement as to a final assessment by the solicitor to the inquiry in respect of any award under rule 31(5) or rule 32(2) an applicant may apply to the chairperson to review the assessment.

(2) The application for a review must be made in writing and received by the solicitor to the inquiry within twenty one days of the date of despatch of the final assessment by the solicitor to the inquiry which it is sought to review.

(3) The chairperson may—

- (a) require such information to be provided by the applicant as he may consider necessary; and
- (b) may determine any review without a hearing if he so decides; and
- (c) may extend the time for applying for a review if the applicant satisfies him that there was a good reason for not making the application within the time provided by paragraph (2).

(4) The decision of the chairperson on the review shall be final.

(5) Where the chairperson determines the amount of an award under this Rule—

- (a) he shall notify the applicant of that determination; and
- (b) refer the award to OFMDFM within twenty-eight days of that notice being sent for approval and if appropriate payment of that amount.

Making an award

34. Where the amount payable in respect of any bill is not to be reviewed, or where any review is withdrawn, the chairperson must make an award of the amount assessed by the solicitor to the inquiry and refer the award to OFMDFM within twenty-eight days of the final assessment being sent to the applicant for approval and if appropriate payment of the amount.

Powers of the chairperson

35. Save as otherwise expressly or by necessary implication provided by these Rules, the chairperson shall decide the procedures to be followed by the inquiry and the inquiry team, in particular but not limited to—

- (a) where any oral hearings are to be held by the inquiry or the acknowledgement forum; and
- (b) the procedure to be followed when witnesses are giving evidence to the inquiry or to the acknowledgement forum.

Sealed with the Official Seal of the Office of the First Minister and deputy First Minister on 24th June 2013.



Maggie Smith
A senior officer of the Office of the First
Minister and deputy First Minister

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules, made under section 21 of the Inquiry into Historical Institutional Abuse Act (Northern Ireland) 2013, deal with matters of evidence and procedure in relation to the inquiry, the return or keeping, after the end of the inquiry, of documents given to or created by the inquiry and awards made by the chairperson under section 14 of the Act.

Rule 5 deals with the designation of core participants by the chairperson.

Rules 6, 7 and 8 deal with the designation of a lawyer appointed by a core participant or a witness as a recognised legal representative. Rule 7 sets out the circumstances in which one recognised legal representative should be appointed to represent two or more core participants.

Rules 9, 10 and 11 are concerned with the collection of evidence by the inquiry panel and the conduct of any oral hearings that are held. Rule 10 includes the use of live television links. Rule 11 permits a core participant or a recognised legal representative of a core participant to propose a question for the counsel to the inquiry to ask a witness.

Rule 12 permits the recognised legal representative of a core participant to make opening and closing statements if the chairperson permits.

Rule 13 provides that where there is an application that evidence should be withheld from the public domain (by virtue of a restriction order or on grounds of public interest immunity), that evidence must be subject to the same restrictions as it would be subject to if the order sought had been granted. However, the chairperson may show the evidence to another individual where he considers that disclosure is necessary for the determination of the application.

Rules 14 to 17 deal with the sending of letters of warning to those who may be, or have been, criticised during the inquiry proceedings or in any report of the inquiry.

Rule 18 provides for the delivery of copies of the report which is to be published to core participants following delivery to the First Minister and deputy First Minister.

Rule 19 provides for the protection of acknowledgement forum documents.

Rules 20 and 21 set out the chairperson's records management obligations during the inquiry. Rule 20 provides for the transfer of custody of the inquiry record at the end of the inquiry. Rule 21 provides for destruction of acknowledgement forum records.

Rules 22 to 34 set out the rules regarding the making and assessment of awards to meet witness expenses, including legal expenses. Rule 23 sets out the general criteria for determining whether an award should be made. Rule 24 identifies conditions to be applied to awards, including the maximum hourly rates that may be paid to legal representatives.

Rule 35 gives the chairperson of the inquiry the power to decide all matters of procedure not expressly provided, or by necessary implication, by the Act or these Rules.