
STATUTORY INSTRUMENTS

1992 No. 1627

TRIBUNALS AND INQUIRIES

The Public Libraries (Inquiries Procedure) Rules 1992

<i>Made</i>	- - - -	<i>7th July 1992</i>
<i>Laid before Parliament</i>		<i>10th July 1992</i>
<i>Coming into force</i>	- -	<i>1st August 1992</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 11 of the Tribunals and Inquiries Act 1971(1), and after consultation with the Council on Tribunals, hereby makes the following Rules:—

Citation and commencement

1. These Rules may be cited as the Public Libraries (Inquiries Procedure) Rules 1992 and shall come into force on 1st August 1992.

Interpretation

2. In these Rules, unless the context otherwise requires:—

“the Act” means the Public Libraries and Museums Act 1964(2);

“appointed person” means the person appointed by the Secretary of State(3) to hold the inquiry;

“inquiry” means an inquiry to which these Rules apply;

“library authority” means an authority as defined in section 25 of the Act in respect of which an inquiry is held or is proposed to be held;

“pre-inquiry meeting” means a meeting held before an inquiry to consider what may be done with a view to securing that it is conducted efficiently and expeditiously;

(1) 1971 c. 62.

(2) 1964 c. 75.

(3) The functions of the Secretary of State under the Public Libraries and Museums Act 1964 (except the functions under section 9), in so far as they are exercisable in relation to England, were transferred to the Lord President of the Council by article 4 of the Transfer of Functions (Arts, Libraries and National Heritage) Order 1983 (S.I.1983/879). The functions of the Lord President of the Council were transferred to the Chancellor of the Duchy of Lancaster by article 2 of and Part I of Schedule 1 to the Transfer of Functions (Arts, Libraries and National Heritage) Order 1984(S.I. 1984/1814) and were re-transferred to the Lord President of the Council by article 2 of and Part I of Schedule 1 to the Transfer of Functions (Arts, Libraries and National Heritage) Order 1986 (S.I. 1986/600). The functions were returned from the Lord President of the Council to the Secretary of State by article 3 of and Part I of Schedule 1 to the Transfer of Functions (National Heritage) Order 1992 (S.I. 1992/1311).

“relevant date” means the date of the Secretary of State’s written notice to the library authority of his intention to cause an inquiry to be held, and “relevant notice” means that notice;

“statement of case” means a written statement which contains full particulars of the case which a person proposes to put forward at an inquiry, and a list of any documents which that person intends to refer to or put in evidence.

Application of Rules

3. These Rules shall apply in relation to any inquiry which is caused by the Secretary of State to be held in respect of a library authority in England or Wales pursuant to section 10(1) (as to whether a library authority has failed to carry out duties relating to the public library service imposed on it by or under the Act) or section 16 (any matter relating to the functions of a library authority under the Act) of the Act(4).

Preliminary action to be taken by the Secretary of State

4. Where the Secretary of State intends to cause an inquiry to be held, he shall give written notice to the library authority and to such other persons or classes of persons as he may decide and shall as soon as practicable thereafter publish in at least two newspapers circulating in the area in respect of which the library authority is obliged to carry out its duties a notice of the inquiry.

Service of statement of case, etc

5.—(1) The Secretary of State shall not later than 4 weeks after the relevant date, serve a statement of case on the library authority and on each person on whom the relevant notice was served and shall send to the appointed person a copy of such statement.

(2) Any person may serve on the Secretary of State and on the library authority and send to the appointed person a statement of case not later than 8 weeks after the relevant date and the Secretary of State shall not later than 7 days after receipt of the statement of case send a copy of such statement to each other person on whom the relevant notice was served. Where the person serving the statement of case is not a person on whom the relevant notice was served, the Secretary of State shall also send a copy of his statement of case to such person within 7 days of receipt of that person’s statement of case or if he thinks fit give notice in writing to such person within such period stating the times and places at which he may inspect the statement of case and where practicable take copies of it.

(3) The appointed person may require any person who has served a statement of case in accordance with this rule to provide such further information about the matters concerned in the statement as he may specify.

(4) Any person serving a statement of case shall serve with it a copy of any document, or of the relevant part of any document, referred to in the written statement.

(5) The library authority shall afford to any person who so requests a reasonable opportunity to inspect and, when practicable, take copies of any statement of case or other document which, or a copy of which, has been served on them in accordance with any of the preceding paragraphs of this rule, and of their statement of case together with a copy of any document, or of the relevant part of any document, referred to in the list comprised in that statement or otherwise served by them pursuant to this rule; and shall specify in their statement of case the time and place at which the opportunity will be afforded.

(4) Section 16 was amended by section 208(3)(h) of the Local Government Act 1972 (c. 70).

Appointed person's power to hold pre-inquiry meetings

6.—(1) The appointed person may hold a pre-inquiry meeting, or if appropriate more than one meeting, where he considers it desirable and shall arrange for not less than 14 days' written notice of any such meeting to be given to the Secretary of State, the library authority, any person on whom the relevant notice was served and any other person whose presence at the meeting appears to him to be desirable.

(2) The appointed person shall preside at the pre-inquiry meeting and shall determine the matters to be discussed and the procedure to be followed, and he may require any person present at the meeting who, in his opinion, is behaving in a disruptive manner to leave it and he may refuse to permit that person to return or to attend any further pre-inquiry meeting, or may permit him to return or to attend only on such conditions as he may specify.

Inquiry timetable

7.—(1) The appointed person may arrange a timetable for the proceedings at, or at part of, the inquiry at any pre-inquiry meeting held pursuant to rule 6 or, where no such meeting is held, at any other time. The appointed person shall notify the timetable to the persons entitled to appear at the inquiry and may at any time vary the timetable.

(2) The appointed person may specify in a timetable arranged pursuant to this rule a date by which any proof of evidence and summary required by rule 10(1) to be sent to him shall be so sent.

Date and notification of inquiry

8.—(1) The date fixed by the Secretary of State for the holding of the inquiry shall be—

- (a) not later than 22 weeks after the relevant date; or
- (b) where the Secretary of State is satisfied that in all the circumstances of the case it is impracticable to hold the inquiry within the period described in sub-paragraph (a), the earliest practicable date after the end of that period.

(2) Unless the Secretary of State agrees a lesser period of notice with the library authority, he shall give not less than 28 days' written notice of the date, time and place fixed by him for the holding of an inquiry to every person entitled to appear at the inquiry.

(3) The Secretary of State may vary the date fixed for the holding of an inquiry, whether or not the date so varied is within the period mentioned in paragraph (1), and paragraph (2) shall apply to a date so varied as it applies to the date originally fixed.

(4) The Secretary of State may also vary the time or place for the holding of an inquiry and shall give such notice of any such variation as appears to him to be reasonable.

(5) The Secretary of State may require the library authority to post a notice of the inquiry within such period as he may specify in a conspicuous place in all the public libraries in its area, and not less than 14 days before the date fixed for the holding of the inquiry he shall publish in at least two of the newspapers circulating in the area in respect of which the library authority is obliged to carry out its duties a notice of the inquiry.

(6) Every notice of an inquiry posted or published pursuant to paragraph (5) shall contain a clear statement of the date, time and place of the inquiry, of the powers enabling the Secretary of State to cause the inquiry to be held and of the subject matter of the inquiry.

Appearances at inquiry

9.—(1) The persons entitled to appear at an inquiry are:—

- (a) the Secretary of State;

(b) the library authority;

(c) any person on whom notice of the inquiry has been served under rule 4 or who has served a statement of case on the Secretary of State under rule 5(2).

(2) Nothing in paragraph (1) shall prevent the appointed person from permitting any other person to appear at the inquiry, and such permission shall not be unreasonably withheld.

(3) Any person entitled or permitted to appear may do so on his own behalf or be represented by counsel, solicitor or any other person.

(4) The appointed person may allow one or more persons to appear for the benefit of some or all of any persons having a similar interest in the matter under inquiry.

Proofs of evidence

10.—(1) A person entitled to appear at the inquiry who proposes to give, or to call another person to give, evidence at the inquiry by reading a proof of evidence shall send a copy of the proof to the appointed person. The Secretary of State, the library authority and any other person so directed by the appointed person shall also supply a written summary of their proof.

(2) The proof and any summary shall be sent to the appointed person not later than—

(a) 3 weeks before the date fixed for the holding of the inquiry, or

(b) where a timetable has been arranged pursuant to rule 7 which specifies a date by which the proof and any summary shall be sent to the appointed person, that date.

(3) Where the Secretary of State or the library authority send a copy of a proof of evidence and a summary to the appointed person in accordance with paragraph (1) they shall at the same time send a copy to every other person entitled to appear at the inquiry; and where any other person so sends such a copy proof and any summary he shall at the same time send a copy to the Secretary of State and the library authority.

(4) Where the appointed person so directs, only the written summary of the proof of evidence shall be read at the inquiry.

(5) Any person required by this rule to send a copy of a proof of evidence to any other person shall send with it a copy of the whole, or the relevant part, of any document referred to in it and not previously supplied under rule 5(4).

(6) The Secretary of State and the library authority shall afford to any person who so requests a reasonable opportunity to inspect and, where practicable, to take copies of any document sent to or by them in accordance with any of the preceding paragraphs of this rule.

Procedure at inquiry

11.—(1) Except as otherwise provided in these rules, the appointed person shall determine the procedure at the inquiry.

(2) The appointed person shall conduct the inquiry in public unless for any reason he determines that the inquiry or any part of it shall be in private.

(3) Unless in any particular case the appointed person with the consent of the Secretary of State otherwise determines, the Secretary of State shall begin and shall have the right of final reply; and the other persons entitled or permitted to appear shall be heard in such order as the appointed person may determine.

(4) A person entitled to appear at an inquiry shall be entitled to call evidence and the Secretary of State and the library authority shall be entitled to cross-examine any person giving evidence, but, subject to paragraphs (3), (5), (6) and (8), the calling of evidence and the cross-examination of persons giving evidence shall otherwise be at the appointed person's discretion.

- (5) The appointed person may refuse to permit—
- (a) the giving or production of evidence;
 - (b) the cross-examination of persons giving evidence; or
 - (c) the presentation of any other matter,

which he considers to be irrelevant or repetitious; but where he so refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit to him any written evidence or other matter in writing before the close of the inquiry.

(6) Where a person gives evidence at an inquiry by reading a summary of his evidence in accordance with rule 10(4), the proof of evidence referred to in rule 10(1), shall, unless the person required to supply the summary notifies the appointed person that he now wishes to rely on the contents of that summary only, be treated as tendered in evidence, and the person whose evidence the proof contains shall then be subject to cross-examination on it to the same extent as if it were evidence he had given orally.

(7) The appointed person may direct that facilities shall be afforded to any person appearing at an inquiry to take or obtain copies of documentary evidence open to public inspection.

(8) The appointed person may require any person appearing or present at an inquiry who, in his opinion, is behaving in a disruptive manner to leave and may refuse to permit that person to return, or may permit him to return only on such conditions as he may specify; but any such person may submit to him any evidence or other matter in writing before the close of the inquiry.

(9) The appointed person may allow any person to alter or add to a statement of case served under rule 5 so far as may be necessary for the purposes of the inquiry; but he shall (if necessary by adjourning the inquiry) give any other person entitled to appear who is appearing at the inquiry an adequate opportunity of considering any fresh matter or document.

(10) The appointed person may proceed with an inquiry in the absence of any person entitled to appear at it.

(11) The appointed person may take into account any written representation or evidence or any other document received by him from any person before an inquiry opens or during the inquiry provided that he discloses it at the inquiry.

(12) The appointed person may from time to time adjourn the inquiry and, if the date, time and place of the adjourned inquiry are announced at the inquiry before the adjournment, no further notice shall be required.

Site inspections

12.—(1) The appointed person may make an unaccompanied inspection of any premises used or formerly used by the library authority as a public library and referred to in any statement of case served under rule 5 before or during an inquiry without giving notice of his intention to the persons entitled to appear at the inquiry.

(2) The appointed person may, during an inquiry or after its close, inspect any premises referred to in paragraph (1) in the company of the Secretary of State and the library authority; and he shall make such an inspection if so requested by the Secretary of State or the library authority before or during an inquiry.

(3) In all cases where the appointed person intends to make an inspection of the kind referred to in paragraph (2) he shall announce during the inquiry the date and time at which he proposes to make it.

(4) The appointed person shall not be bound to defer an inspection of the kind referred to in paragraph (2) where any person mentioned in that paragraph is not present at the time appointed.

Procedure after inquiry

13.—(1) After the close of an inquiry, the appointed person shall make a report in writing to the Secretary of State which shall include his conclusions and his recommendations or his reasons for not making any recommendations.

(2) If, after the close of an inquiry, the Secretary of State—

- (a) differs from the appointed person on any matter of fact mentioned in, or appearing to him to be material to, a conclusion reached by the appointed person, or
- (b) takes into consideration any new evidence or new matter of fact, (not being a matter of government policy)—

he shall not come to a decision without first notifying the persons entitled to appear at the inquiry who appeared at it of the difference and the reasons for it or the new evidence or matter of fact and affording to them an opportunity of making written representations to him within 21 days of the date of the notification.

(3) If, after the close of an inquiry, the Secretary of State has taken into consideration any new evidence or new matter of fact as described in paragraph (2)(b) and is for that reason disposed to disagree with a recommendation made by the appointed person he shall give the persons entitled to appear at the inquiry who appeared at it the opportunity of asking within 21 days of the notification referred to in paragraph (2) for the re-opening of the inquiry.

(4) The Secretary of State may, as he thinks fit, cause an inquiry to be re-opened to afford an opportunity for persons, including the Secretary of State, to be heard on such matters relating to the subject-matter of the inquiry as he may specify, and he shall do so if asked by the library authority pursuant to paragraph (3) and in the circumstances and within the period mentioned in that paragraph; and where an inquiry is re-opened—

- (a) the Secretary of State shall send to the persons entitled to appear at the inquiry who appeared at it a written statement of the specified matters; and
- (b) paragraphs (2) to (6) of rule 8 shall apply as if references to an inquiry were references to a re-opened inquiry.

Notification of decision

14.—(1) The Secretary of State shall notify his decision and his reasons for it in writing to all persons entitled to appear at the inquiry who did appear at it and to any other person who, having appeared at the inquiry, has asked to be notified of the decision.

(2) Where a copy of the appointed person's report is not sent with the notification of the decision, the notification shall be accompanied by a copy of his conclusions and of any recommendations made by him; and if a person entitled to be notified of the decision has not received a copy of that report, he shall be supplied with a copy of it on written application made to the Secretary of State within 4 weeks of the decision.

(3) In this rule "report" does not include any documents appended to the appointed person's report but any person who has received a copy of the report may apply to the Secretary of State in writing within 6 weeks of the date of receipt of the report for an opportunity of inspecting any such documents and the Secretary of State shall afford him that opportunity.

Allowing further time

15. The Secretary of State or the appointed person may at any time in any particular case allow further time for the taking of any step which is to be taken by virtue of these Rules, and references in these Rules to a day by which, or a period within which, any step is to be taken shall be construed accordingly.

Service of notices by post

16. Notices or documents required to be served or sent under any of the provisions of these Rules may be sent by post.

7th July 1992

Mackay of Clashfern, C.

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 regulate the procedures to be followed in respect of inquiries to be held by the Secretary of State under section 10 of the Public Libraries and Museums Act 1964 in connection with the suspected failure by a library authority to carry out duties relating to the public library service under the Act or under section 16 of the Act in relation to the functions of a library authority under the Act.

The Rules establish a timetable for each procedural step, and provide for exchange of statements between the Secretary of State, the library authority and other interested parties in addition to regulating the conduct of the inquiry itself, the procedure after the inquiry and the notification of the Secretary of State's decision.