

## **PUBLIC INQUIRY FAQ**

### **What is a Public Inquiry?**

The Inquiries Act 2005 enables a Public Inquiry to be held where events have caused, or are capable of causing, public concern or if there is public concern over particular events that have occurred.

### **What is the purpose of a Public Inquiry?**

The purpose of a Public Inquiry is to investigate thoroughly the matters in question to establish the facts and to find out what happened. Where necessary recommendations will be made to prevent something from happening again.

A Public Inquiry cannot determine civil or criminal liability, or award compensation. It is a means of seeking out the facts in a way that would not be possible in adversarial proceedings, such as a lawsuit in which one party wins and another loses. A Public Inquiry does not decide in favour of one side or the other, nor is it a trial or a disciplinary hearing.

### **Why is the Inquiry into the McKie case being set up?**

The Scottish Government gave a clear commitment to establish an independent Public Inquiry into the case. The purpose of the Inquiry is not to try or retry any individual for the events in the past, nor to challenge the decisions of the prosecution, the defence or the courts in relation to any of those events. The purpose is to open up and understand those events and to learn from them to ensure Scotland has a fully efficient and effective approach to the identification, verification and presentation of fingerprint material.

### **What does terms of reference mean?**

Under the Inquiries Act 2005, terms of reference reflects the following:

- the matters to which an Inquiry relates
- any particular matters as to which the Inquiry panel is to determine the facts
- whether the Inquiry panel is to make recommendations
- any other matters relating to the scope of the Inquiry that the Minister may specify.

### **What are the terms of reference in the McKie Inquiry?**

The terms of reference announced today, 14<sup>th</sup> March are:

- to inquire into the steps that were taken to identify and verify the fingerprints associated with, and leading up to, the case of HM Advocate v. McKie in 1999, and
- to determine, in relation to the fingerprint designated Y7, the consequences of the steps taken, or not taken, and
- to report findings of fact and make recommendations as to what measures might now be introduced, beyond those that have already been introduced since 1999, to ensure that any shortcomings are avoided in the future.

### **Who is responsible for the Inquiry?**

An Inquiry is undertaken by a Chairman alone or with one or more other members. Each member of an Inquiry panel is appointed by the Minister. The Minister must not appoint a person as a member of the Inquiry panel if it appears that the person has a direct interest in the matters to which the Inquiry relates or a close association with an interested party.

### **Who is the Chairman for this Inquiry?**

The Chairman of the Inquiry is Lord Justice Campbell, a senior Judge from Northern Ireland.

### **How does the Inquiry obtain evidence?**

The Inquiry will obtain evidence in writing but will also take evidence in public through a programme of oral hearings.

### **What are oral hearings?**

The purpose of oral hearings is to assist the Inquiry in areas where facts are not clear or where there is controversy. They may help to clarify or expand on certain matters, or provide an opportunity to test the accuracy or reliability of evidence.

The fact that certain evidence is not dealt with at the hearings does not mean that it is regarded as irrelevant or that it is being afforded less weight by the Inquiry. The Inquiry considers all evidence it receives.

### **Do witnesses have to give evidence under oath?**

The Chairman has the discretion to require witnesses to give evidence under oath.

### **What if someone does not want to assist the Inquiry or fails to assist with evidence gathering?**

The Chairman of an Inquiry may, by notice, require a person to attend at a stated time and place to give evidence, produce any documentation in their custody or under their control that relates to the matter in question at the Inquiry and to produce any other item under their responsibility for inspection, examination or testing by or on behalf of the Inquiry panel.

While an Inquiry cannot rule on criminal liability or convict anyone, it is a criminal offence for anyone to fail, without a reasonable excuse, to comply with a formal notice requiring attendance at an Inquiry or the production of evidence, or to deliberately distort or conceal relevant evidence.

### **Will the hearings be opened to the public?**

As much evidence as possible will be heard in public. There may be a need for some evidence to be given in a manner that preserves the anonymity of the witness. The Chairman will consider all requests and make a decision.

### **How can I keep in touch with the Inquiry progress?**

Information and transcripts of the proceedings should be made available online by the Inquiry and we will provide further information when it becomes available. Broadcasts of proceedings can be made if authorised by the Chairman. If this authorisation is given we will be providing access to the live proceedings from the public inquiry. Viewing rooms will be set up in Aberdeen, Dundee, Edinburgh and Glasgow where you can drop in and keep up to date with what is happening each day, who is giving evidence and any outcomes.

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