

Note on the Chair's Decision regarding Section 21 of the Inquiries Act 2005

Introduction

1. This Note sets out the Chair's decision about the circumstances in which she will not exercise her powers to compel a witness to provide documents, produce a written statement, or give evidence to the Inquiry at a hearing.
2. It should be read in conjunction with the Inquiry's [Terms of Reference](#) and with the following separate protocols published by the Inquiry:
 - [Protocol on Documents](#); and
 - [Protocol on Witness Statements](#).

The Legal Framework

3. The Chair expects that any witness who is called to give evidence at a hearing or to whom a request to provide documents or a written statement is made will co-operate voluntarily with the Inquiry.
4. Under section 21 of the Inquiries Act 2005 (the Inquiries Act), in certain circumstances (such as where a witness has ignored a request for a written statement, or where a person, organisation or entity (a Material Provider) has refused to provide documents requested by the Inquiry), the Chair can issue a notice requiring them to do so by a specified date (a Section 21 Notice). Under the same section, the Chair can also issue a Section 21 Notice requiring a witness to attend the hearing venue on a specified date, at a specified time, to give evidence orally.
5. Any witness receiving a Section 21 Notice may claim, under section 21(4) of the Inquiries Act, that they are unable to comply with the Notice or that it is not reasonable in all the circumstances for them to comply. Any claim of this kind should be set out in writing to the Chair as soon as possible. She will then decide whether to revoke or vary the Notice.
6. However, if a witness fails without a reasonable excuse under section 21(4) of the Inquiries Act to comply with a Section 21 Notice issued by the Chair, they may be guilty of a criminal offence under section 35 of the Inquiries Act, which can be penalised by a fine and/or by a term of imprisonment. Under section 36 of the Act, the witness could also be made subject to enforcement proceedings at the High Court.

The Inquiry's Approach

7. The Inquiry places the wellbeing of those engaging with the Inquiry at the heart of its work and recognises that giving evidence at a hearing may be particularly difficult for the family and friends of those who have died, and for patients and former patients. The Inquiry's principal objective is to ensure that each witness is fully supported in a way that allows them to share their experiences to the best of their ability.
8. To achieve that objective and to encourage these categories of witnesses to share their experiences with the Inquiry as safely and comfortably as possible, the Chair has confirmed that she will not exercise her powers under section 21 of the Inquiries Act against the family and friends of those who have died, or against patients and former patients, unless in exceptional circumstances. This means that no such individual will, at any stage, be compelled to give evidence at any Inquiry hearing. They will be invited to do so on a voluntary basis.
9. Whether a witness is a family member or friend of a person who has died, or a patient or former patient, will be interpreted widely, at the discretion of the Chair.
10. Should the Chair consider an exceptional circumstance to arise in which she might seek to compel evidence from a family member, friend, patient or former patient, the witness in question will be notified and given a reasonable opportunity to explain why, for instance, the threshold is not met, and a Section 21 Notice ought not to be issued.

Point of Contact

11. If you have any queries about this Note, you can contact the Inquiry by phone on 020 7972 3500 (leaving a voicemail), by email at Contact@LampardInquiry.org.uk, or by post - The Lampard Inquiry, PO Box 78136, London, SW1P 9WW. All written correspondence should be addressed to the Solicitor to the Inquiry.

Review

12. If this Note requires amendment during the course of the Inquiry, an updated version will be published on the Inquiry's website at the earliest opportunity. Any amendments will be subject to the review and approval of the Chair.

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