



UNDER THE INQUIRIES ACT 2013

IN THE MATTER OF The Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions

MINUTE 1 – PROCEDURAL HEARING

Dated: 2 July 2019

INTRODUCTION

1. At its opening hearing on 25 June 2019, the Royal Commission of Inquiry summarised its guiding principles and the ways in which it will go about its work.¹ One important way is through holding public hearings.
2. The first public hearing where evidence will be presented (**substantive hearing**) will take place on Tuesday, **29 October 2019**, starting at 10:00am. It is expected to last two weeks. The venue for the hearing will be advised as soon as it is confirmed.
3. To prepare for the substantive hearing, the Royal Commission will hold a one-day hearing to address procedural matters (**procedural hearing**) on Monday, **19 August 2019**, starting at 10:00am. The venue for the procedural hearing will also be advised as soon as it is confirmed.
4. The purpose of this Minute is to provide further information about how these two hearings will be conducted, and how participation, especially of potential core participants, can occur.
5. The Royal Commission will issue further practice notes, protocols and minutes as required.

SUBSTANTIVE HEARING

6. The purpose of the first substantive hearing in October/November will be to call witnesses to provide context and give evidence about the background to the Royal Commission being established, as well as examining broad themes across the terms of reference. For example: the circumstances of going into care, the nature and extent of abuse and neglect that occurred, the impact on those affected by that abuse or neglect, and how the principles of Te Tiriti o Waitangi underpin the central questions of this Inquiry.

¹ The transcripts of the hearings are available here:
<https://abuseinstatecare.royalcommission.govt.nz/Live-Stream-Hearings>



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7. Ahead of each public hearing the Royal Commission will issue a Scope Document setting out the intended focus for that particular substantive hearing. The Scope Document for the first substantive hearing will be published on the Inquiry website on Friday **5 July 2019**.
8. The Inquiry may deal with particular topics in greater depth at subsequent hearings, once further information or evidence is received, or a specific investigation has concluded.
9. In advance of the first substantive hearing, the Royal Commission will issue practice notes setting out requirements relating to filing of evidence, disclosure, and other relevant matters.
10. The dates, locations and times of further public hearings will be notified on the Inquiry website. For anyone who has been designated a core participant by the Royal Commission, they or their lawyer (if they have one) will be notified electronically.

PROCEDURAL HEARING

11. To ensure effective preparation for the first substantive hearing, the Inquiry will hold a procedural hearing on 19 August 2019. The purposes of that procedural hearing are:
 - (a) for the Royal Commission to provide information (including how to apply for leave to appear) relevant to the first substantive public hearing being held in October/November 2019;
 - (b) to provide an opportunity for individuals, groups, institutions or other organisations who wish to formally participate in the Inquiry to appear before the Royal Commission and seek designation as core participants as permitted under section 17 of the Inquiries Act 2013 (**core participants**); and
 - (c) to raise any procedural points or other issues core participants wish the Royal Commission to deal with prior to the hearing in October/November 2019.
12. Any person (whether individual, group, institution, or other organisation) (**person**) may attend the procedural hearing.

LEGAL ASSISTANCE TO PARTICIPATE IN HEARINGS

13. It is not necessary to have a lawyer to participate in the Inquiry.
14. The Royal Commission does however have powers under s 18 of the Inquiries Act to recommend that the Department of Internal Affairs fund legal assistance to persons in limited circumstances.
15. Any person wishing to discuss eligibility for, or access to, such legal assistance so they can participate in the August procedural hearing, or subsequent public hearings, should contact the Royal Commission at 0800 222 727 or by email: counselassist@abuseincare.org.nz. They will also be able to tell you how to apply for such legal assistance.
16. A separate practice note relating to publicly funded legal assistance will be issued by the Royal Commission, once this process has been finalised and approved.



CORE PARTICIPANT APPLICATIONS

17. A core participant is someone who has played, or may have played, a direct and significant role in relation to the subject matter of the Inquiry or has a significant interest in a substantial aspect of the matters to which the Inquiry relates, or who may be subject to explicit or serious criticism during the Inquiry or in the report.
18. Any person who considers they may have a relevant interest in matters to be considered by the Royal Commission can apply to be designated as a core participant under s17 of the Inquiries Act. They may apply using the form at **Schedule 1** of this Minute, or they can apply by written memorandum as described in the next section.
19. Applications to be a core participant can be made at any time during the Inquiry.
20. Participation in the Inquiry is not limited to core participants. This can also be achieved through the Leave to Appear process described later in this Minute.
21. The Royal Commission will consider all applications for core participant status having regard to the matters set out in s17(2) of the Act.
22. The Royal Commission may also identify any person it considers should be designated a core participant, and will provide written notice of that decision to the core participant. The Royal Commission's decision is final.
23. As described at the 25 June 2019 hearing, the Royal Commission will publish a Scope Document at the start of each investigation, to define the purpose of the particular investigation and hearing. This will assist some participants to decide if they want to seek core participant status. Some participants may therefore wish to await the publication of specific Scope Documents before deciding whether to seek core participant status. Others, whose role in the Inquiry is central and unavoidable, may wish to seek that status now.

WRITTEN MEMORANDA

24. Persons seeking core participant status now are invited to file a written memorandum with the Royal Commission no later than **5:00pm on Friday, 26 July 2019**. The memorandum should be filed electronically via email at counselassist@abuseincare.org.nz.
25. The memorandum should address, but is not limited to:
 - (a) a description of the applicant, the context in which they are relevant to the Inquiry's terms of reference, and the reasons they believe they meet the s17 criteria of a core participant;
 - (b) a broad outline of the evidence or other information they anticipate providing to the Inquiry (including names of any known witnesses);
 - (c) whether it is anticipated any orders will be sought to prohibit the publication of names or other information under s 15 of the Inquiries Act;



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- (d) an indication of any applications or other procedural orders or directions they may seek from the Royal Commission;
- (e) any procedural matters they wish to provide information or comment to the Inquiry about;
- (f) any other matters they wish to raise with the Commission.

LEAVE TO APPEAR

- 26. The Royal Commission determines who may appear at any hearing and the extent to which they may participate. For example, it will not be appropriate for every core participant to appear at every public hearing.
- 27. Prior to each public hearing the Royal Commission will invite applications for Leave to Appear, notifying a date prior to each hearing when such applications must be filed.
- 28. Any person, including a core participant, who believes they are relevant to the terms of reference or the matters to be examined at a particular public hearing, should apply by providing a written memorandum to the Royal Commission for Leave to Appear, setting out their reasons. These may include, but are not limited to:
 - (a) direct, significant and relevant evidence about the matters to be examined;
 - (b) number of witnesses able to give evidence on those matters, or
 - (c) concern there may be natural justice issues if not permitted Leave to Appear.
- 29. Only those with Leave to Appear will be permitted to ask questions of witnesses in accordance with any directions from the Inquiry, or to make submissions, again as permitted by the Inquiry.
- 30. If Leave to Appear is granted, it may be restricted to a specific part of a phase or public hearing, or for a specific purpose, or may be otherwise restricted, according to circumstances.
- 31. The Royal Commission will consider all applications for Leave to Appear, and notify the applicant of their decision, including any restrictions or conditions. This decision will be final.
- 32. The Royal Commission may withdraw Leave to Appear or make leave subject to altered or additional conditions.

WITNESS ANONYMITY

- 33. The Inquiry is committed to giving survivors, as well as their families or whānau, a choice about how they give evidence to the Inquiry. Some may wish to participate only through the process of private sessions which are confidential. Others may wish to participate by giving evidence at public hearings.
- 34. While ultimately the Royal Commission will make the decision about survivor witnesses they will hear from at public hearings, for those who would like to be considered as a witness at a public hearing, the Royal Commission has powers under s 15 of the Inquiries Act to prohibit the publication of information. This includes for example the name of, or particulars that may identify, a witness or other person participating in the Inquiry, or the whole or any part of any evidence or submissions they make to the Inquiry.



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35. If a survivor witness wants to appear at a public hearing, but fears doing so without protection, whether through a s 15 order, or giving evidence behind a screen or being otherwise anonymised, please contact the Inquiry to find out how you can receive the protections you need. The Royal Commission can be contacted on 0800 222 727 or by email counselassist@abuseincare.org.nz.
36. A practice note setting out the Royal Commission's approach to s 15 orders in more detail will be issued shortly.

Produced by:

**The Royal Commission of Inquiry into Historical Abuse in
State Care and in the Care of Faith-based Institutions**

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