

COMMISSION TO INQUIRE INTO CHILD ABUSE

THE INVESTIGATION COMMITTEE

RULES OF PROCEDURE

Preamble

1. In this Appendix-

- (a) "Complainant" means a person who alleges that he or she has suffered abuse in childhood in an institution and who is prepared to give evidence to the Investigation Committee;
- (b) "Manager" means a person or body concerned with the ownership, running or management of an institution ;
- (c) "Regulator " means a person or body concerned with the administration , operation, supervision, inspection or regulation of an institution ;
- (d) "Respondent" means a person against whom a Complainant makes an allegation of abuse and any other person or body, whether concerned with the management or regulation of an institution, whom the Complainant implicates in the alleged abuse and any other person or body against whom an adverse finding might be made arising out of such allegation;
- (e) "Survivors' interest" means the interest of survivors of abuse in an institution in which it has been established that abuse has occurred, including Complainants; and
- (f) Words and expressions used have the meanings ascribed to them in the Commission to Inquire into Child Abuse Act, 2000 (the Act).

2. A request or direction given by the Investigation Committee (through a inquiry officer or otherwise) or by the Chairperson of the Investigation Committee shall stipulate a reasonable time for compliance with the request or direction, having regard to the nature of the request or direction. For instance, a request by an inquiry officer under paragraph (a) or paragraph (b) of section 23(2) of the Act shall stipulate a period of four weeks for compliance with the request. Time for compliance with a request or direction may be extended at the discretion of the Investigation Committee.
3. Every person or body concerned will be given at least two weeks' notice of the date of a hearing.
4. Subject to paragraph 5, any request, direction or notice may be served by registered post, facsimile transmission or personally.
5. Where a person or body is being represented before the Investigation Committee by a solicitor, any request, direction or notice may be served on such person or body by ordinary post or facsimile transmission on his solicitor.
6. Not less than one weeks' notice of intention to make a direction under paragraph (c) or paragraph (d) of section 14(1) of the Act shall be given to any person affected by the direction other than the person to whom it is directed.

7. Notwithstanding anything contained in this Appendix, the Investigation Committee shall be at liberty to adopt such procedures as it considers appropriate in relation to the conduct of its inquiry or any part of it and, subject to giving reasonable notice to any person or body thereby affected, may depart from the procedure outlined in this Appendix.

Part 1

Outline of Procedures in relation to Evidence of Allegations of Abuse at Private Hearings.

1. The Investigation Committee, by reference to response to the Commission's advertising campaign or otherwise, shall identify Complainants.
2. Every allegation of a Complainant will be the subject of a preliminary inquiry by an inquiry officer appointed under section 23 of the Act carried out in the manner following:
 - (a) The inquiry officer shall request and obtain a statement in writing provided by the Complainant or made by an inquiry officer in accordance with section 23(2)(a) of the Act and any relevant supporting documents. If the Complainant wishes that a witness be called by the Investigation Committee in support of the allegation, he shall identify the witness and there shall be included in the statement the substance of the evidence to be given by the witness. The statement may include details of any direction under section 14 which the Complainant requests the Chairperson of the Investigation Committee to make.

- (b) The inquiry officer shall, insofar as it is possible to do so against documents in the possession of public bodies in the State to which the Investigation Committee has access, verify that the Complainant was in the institution in which the abuse was alleged to have occurred at the relevant time and any other relevant facts capable of verification. The inquiry officer shall also request from the staff member assigned to the Confidential Committee verification that the Complainant has not applied to give evidence to the Confidential Committee.
- (c) The inquiry officer shall furnish to each Respondent -
- (i) the statement and any relevant documents referred to at (a) above, and
 - (ii) the verification data referred to at (b) above.
- (d) The inquiry officer shall request and obtain from each Respondent a statement provided by the Respondent or made by an inquiry officer in accordance with section 23(2)(b) of the Act. If a Respondent wishes that a witness be called by the Investigation Committee in support of his response, he shall identify the witness and there shall be included in the statement the substance of the evidence to be given by the witness. The statement may include details of any direction under section 14 which the Respondent requests the Chairperson of the Investigation Committee to make.
- (e) The inquiry officer shall prepare a report in writing (the Report) summarising the Complainant's statement of allegations and the statement of each Respondent in response and identifying the areas of factual dispute and any other issues arising on these statements and other relevant

documentation in his possession. The Report accompanied by the following documents-

- (i) the statement of the Complainant,
- (ii) the statement of each Respondent,
- (iii) the relevant documents submitted by the Complainant and each Respondent,
- (iv) the verification data referred to in (b) above, and,
- (v) any other relevant documentation in his possession,

shall be furnished by the inquiry officer to the Investigation Committee, together with a request for such direction or directions under section 14 of the Act as shall be advised by counsel for the Investigation Committee.

- (f) In the event of default by a Respondent in complying with a request pursuant to paragraph (b) of section 23(2) of the Act within the time allowed, the inquiry officer shall outline in the report that circumstance and the Report shall be accompanied by such of the documents referred to at (e) as are available.
- (g) The Chairperson of the Investigation Committee shall give such directions under section 14 of the Act as shall be considered appropriate.
- (h) The inquiry officer, when he is satisfied that all directions under section 14(1) have been or will be complied with, shall certify that the allegation is ready for hearing, and, subject to the directions of the Investigation Committee, he shall schedule the allegation for hearing. Not later than four weeks before the date of the hearing he shall furnish to the Complainant and each Respondent a book of documents containing the Report and

copies of the documents referred to at (e) above and any other documents which will be before the Investigation Committee at the hearing including any supplemental statement furnished by the Complainant or any Respondent.

The book of documents may contain information of which the Complainant is unaware and which may cause distress to him or her. If the Complainant does not have a legal representative, the Commission's witness support officer will contact the Complainant before the book is despatched to apprise him or her in a general way of its contents and to suggest measures with a view to alleviating distress.

3. In accordance with section 4(6) of the Act the Investigation Committee shall endeavour to ensure that the hearing of the allegation is conducted in an atmosphere that is as sympathetic to, and as understanding of, the Complainant as is compatible with the rights of the other parties to the hearing and the requirements of justice. The procedure to be adopted at the hearing shall be at the absolute discretion of the Investigation Committee. However, the Investigation Committee, as a general rule, will adhere to the following order in calling evidence:

(a) The evidence of the Complainant will be taken in the manner following:-

- (i) The Complainant may recount the substance of his or her statement viva voce or, alternatively, his or her statement will be deemed to be read into the record and he or she may elaborate on it, if he or she wishes.

- (ii) The members of the Committee may address questions to the Complainant;
- (iii) Subject to the proviso at the end of this paragraph, each Respondent or his legal representative may address questions to the Complainant, and
- (iv) The Complainant's legal representative may address questions to him or her;

Provided however that in case a Respondent has not complied with the request of an inquiry officer to furnish a statement the entitlement of that Respondent or his or her legal representative to address questions shall be dependent on that Respondent producing a statement in writing setting out the basis on which the Complainant's evidence is contested and subject to such other terms, whether as to adjournment or otherwise, as the Investigation Committee considers appropriate in the interests of justice.

(b) The evidence of each of the Respondents will be taken sequentially in the manner following:

- (i) The statement, if any, of the Respondent will be deemed to be read into the record and the Respondent may elaborate on his or her statement, if he or she so wishes;
- (ii) The members of the Investigation Committee may address questions to the Respondent.
- (iii) The Complainant or his legal representatives may address questions to the Respondent, and
- (iv) The Respondent's legal representative may address questions to him or her.

In case a Respondent has not complied with the request of an inquiry officer to furnish a statement he may nonetheless be allowed to give evidence but on such terms, whether as to adjournment or otherwise, as the Investigation Committee considers necessary to enable any person affected by the evidence to adequately address it.

- (c) The evidence of any witness called at the request of the Complainant in support of his allegation shall then be taken in the same manner as the evidence of the Complainant *mutatis mutandis* save that his or her statement shall be read into the record.
- (d) The evidence of any witness called at the request of a Respondent in support of the response shall be taken in the same manner as the evidence of the Respondent *mutatis mutandis*.
- (e) The Investigation Committee may call any further or other evidence relevant to the allegation as it in its absolute discretion determines, on such terms, whether as to adjournment or otherwise, as it considers necessary to enable any person affected by the evidence to adequately address it.

A witness may be allowed to give evidence on matters not outlined in a statement or supplemental statement on such terms, as to adjournment or otherwise, as the Investigation Committee considers necessary to enable any person affected by such evidence to adequately address it.

4. At the completion of the evidence the Investigation Committee will hear any submissions which the Complainant, or his or her legal representative, and each Respondent, or his, her or its legal representative, may wish to make.

5. No person shall be in attendance at the hearing of an allegation other than the members of the Investigation Committee, the Registrar, the stenographer, Counsel to the Investigation Committee, the Complainant and his or her legal representative and each Respondent and his, her or its legal representative and, while he or she is testifying but not otherwise, any other person called to testify.
6. At any stage in the course of the hearing the Investigation Committee may seek the assistance of or require submissions from Counsel to the Investigation Committee.
7. The transcript of each hearing of the Investigation Committee shall be available for inspection at the offices of the Commission by the Complainant or his or her legal representative and by each Respondent or his or her legal representative within fourteen days of completion of the hearing. A request for inspection facilities should be made in writing to the Investigation Committee and it will be acceded to as soon as reasonably practicable.

Part 2

Outline of Procedures in relation the conduct of Public Hearings in relation to Institutions in which abuse has been established.

1. Following completion of the private hearings of allegations of abuse, if the Commission is satisfied that abuse occurred in a particular institution, it will furnish to each Manager and each Regulator copies of its findings based on

those hearings, with a request for a statement in accordance with paragraph 2. Each Manager and each Regulator, insofar as they are not covered by paragraph 7 of Part 1 of this Appendix, shall be entitled to inspect the relevant transcripts on the basis set out in that paragraph, but the names of the Complainants and any details which would identify them shall be masked.

2. Within a reasonable period of the furnishing of the findings to them, each Manager and each Regulator shall furnish to the Investigation Committee a statement in writing setting out the following information:
 - (a) If, and to what extent, he, she or it acknowledges or denies that he, she or it contributed to the occurrence of the abuse found by the Investigation Committee to have occurred in the institution ;
 - (b) The names of any witnesses whom he, she or it wishes the Investigation Committee to call in support of the position being adopted ;
 - (c) The substance of the evidence which each such witness will give to the Investigation Committee, and
 - (d) Details of any direction under section 14 of the Act, which he, she or it requires the Chairperson of Investigation Committee to make.
3. The statement referred to in paragraph 2 shall be accompanied by copies of any documentation, which the person furnishing the statement intends to rely on in support of the position being adopted.
4. A copy of every statement and supporting documentation furnished by each Manager shall be given to each Regulator and vice versa. Copies of all

statements and documentation shall be given to the legal representative for the Survivors' interest.

5. Within a reasonable period of the furnishing of the said documentation to him the legal representative of the Survivors' interest shall furnish to the Investigation Committee a statement in writing setting out the following information:
 - (a) The names of any witnesses whom he wishes the Investigation Committee to call, setting out the substance of the evidence which each such witness will give to the Investigation Committee, and
 - (b) Details of any direction of section 14 of the Act which he requests the Chairperson of the Investigation Committee to make.
6. If a person has requested that a direction under section 14 of the Act be given, the Chairperson of the Investigation Committee shall consider that request and make such directions as she considers appropriate.
7. Any additional relevant document not already furnished, whether arising from compliance with a direction or otherwise, shall be furnished to each Manager and each Regulator and the legal representative for the Survivors' interest.
8. Not less than four weeks' notice of the holding of a public hearing to deal with the issues provided for under paragraph (c) and (d) of Section 12(1) of the Act arising out of the findings shall be given to each Manager, each Regulator and the legal representative for the Survivors' interest. Notice of the public hearing will be given to the public by public advertisement or such other means as the

Investigation Committee shall direct. The notice in writing to each Manager, each Regulator and the legal representative for the Survivors' interest shall set out the names of the witnesses whose attendance will be requested or directed by the Investigation Committee, who will be given at least two weeks' notice of the date of the hearing, and the order in which it is intended that the witnesses will be called.

9. The procedure to be adopted at the public hearing shall be at the absolute discretion of the Investigation Committee. However, the Investigation Committee shall endeavour to adhere to the following order:
 - (a) Counsel for the Investigation Committee will make an opening statement.
 - (b) Counsel for the Investigation Committee will examine the witnesses whose attendance has been requested or directed by the Investigation Committee, who may be cross examined on behalf of each Manager, each Regulator and legal representative of the Survivors' interest and re-examined on behalf of the Investigation Committee. Insofar as it possible to do so, the witnesses will be called in the order notified.
 - (c) The Investigation Committee may call such further evidence as it deems appropriate in its absolute discretion, subject however to such terms as to adjournment or otherwise, as may be necessary to ensure that any person affected by the evidence has an adequate opportunity to deal with it.

10. Submissions may be made on behalf of each Manager, each Regulator, the legal representative of the Survivors' interest and by counsel for the Investigation Committee in that order.

11. During the course of the public hearing it shall not be permissible to name or disclose details which would identify any child who was in an institution. If a child is named in any document put in evidence at a public hearing his or her name shall be masked and he or she shall be referred to as child A or in some similar manner.

12. The Investigation Committee in its discretion may hold a public hearing in relation to two or more institutions of a similar type the management of which comprises of the same persons or bodies or connected persons or bodies.

13. A stenographer will record all proceedings at public hearings.