

INQUIRIES ACT 2005

EXPLANATORY NOTES

INQUIRY PROCEEDINGS

Section 18: Public access to inquiry proceedings and information

34. This section makes clear that, subject to any restrictions issued under the following section, the chairman is required to do what he considers reasonable to ensure public access to evidence in the ways set out in subsection (1)(a) and (b). The chairman is able to judge what is reasonable so, for example, if the panel has been sent documents that it considers to be irrelevant then the chairman may decide not to make those available with the rest of the evidence.
35. Broadcasting of inquiry proceedings is at the chairman's discretion. In the past, some inquiry chairmen have allowed broadcasting of particular stages, such as the opening statements. In deciding whether to allow broadcasting, the chairman will need to consider whether it would interfere with witnesses' human rights and, in particular, with the right to respect for a private and family life (Article 8 of the European Convention on Human Rights). Unlike inquiries under the Tribunals of Inquiry (Evidence) Act 1921, inquiries under the Inquiries Act will not be covered by section 9 of the Contempt of Court Act 1981, which places restrictions on sound recording.
36. Subsections (3) and (4) of this section provide that, in relation to the records of inquiries held under this Act, the general exemptions for the records of statutory inquiries in the Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002 ("the FOI Acts") will not apply. During the course of an inquiry held under the Inquiries Act, that inquiry is not a public authority for the purposes of those Acts. However, once an inquiry is over, its records are generally held by a public authority, such as a Government Department or the National Archives. Section 41 enables procedure rules to be made, which could provide for the passing of documents given to or created by an inquiry to a public authority. The exemptions in section 32(2) of the FOI Act 2000 and section 37(1)(b) of the FOI Act 2002 will not apply to information contained in those documents. This section does not affect the application of the FOI Acts to inquiries held otherwise than under this Act. Nor does it prevent any other exemption in the FOI Acts from applying to any information in inquiry records.