



# Department of the Prime Minister and Cabinet

## Inquiry into the Earthquake Commission Proactive Release

January 2021

The document below is released by the Department of the Prime Minister and Cabinet relating to the Public Inquiry into the Earthquake Commission.

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# Public Inquiry into the Earthquake Commission

## Minute 4:

### Procedural Matters for the conduct of the Inquiry

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#### Introduction

1. This Minute clarifies certain procedural matters for the conduct of the Public Inquiry into the Earthquake Commission (“Inquiry”).

#### Inquisitorial process

2. The Inquiry Chair intends to conduct an inquisitorial, rather than adversarial, inquiry. This is reflected in [Minute 1](#), which identifies the process for gathering information.
3. In accordance with section 14 of the Inquiries Act 2013 (the “Act”), the Inquiry may conduct its inquiry as it considers appropriate. In making a decision as to the procedure it will adopt, the Inquiry must comply with the principles of natural justice and have regard to the need to avoid unnecessary delay or cost.
4. Section 14(4) provides that “an Inquiry may determine matters such as:
  - (a) whether to conduct interviews, and if so who to interview:
  - (b) whether to call witnesses, and if so, who to call:
  - (c) whether to hold hearings in the course of its inquiry, and if so, when and where hearings are to be held:
  - (d) whether to receive evidence or submissions from or on behalf of any person participating in the inquiry:
  - (e) whether to receive oral or written evidence or submissions and the manner and form of the evidence or submissions:
  - (f) whether to allow or restrict cross-examination of witnesses.”
5. As anticipated in Minute 1, the Inquiry Chair has requested meetings with certain parties, held meetings sought by individuals or organisations, and conducted formal interviews and public forums. These are still ongoing.
6. In addition, written online and paper submissions have been received. The written submission period has now closed.
7. The Inquiry’s approach to the Inquiry records is detailed in [Minute 2](#).

## **No hearings or cross-examination**

8. As an inquiry, and not a court proceeding, the Inquiry is not currently anticipating that "hearings" (as might be understood in a formal court-like process) will be held, nor therefore, that persons will be called to give evidence in such a forum.
9. Attendees at any public forums, or at meetings or formal interviews conducted by the Inquiry Chair, may be asked questions by the Inquiry Chair or counsel assisting. Counsel for, or representatives of, other interested parties, will not be entitled to attend those meetings or interviews (and, accordingly, will not be entitled to ask questions of attendees at those meetings or interviews). In addition, it is not anticipated that anyone other than the Inquiry Chair or counsel assisting will be entitled to ask questions of attendees at public forums. (This paragraph does not in any way preclude a person with whom the Inquiry Chair is meeting, or who the Inquiry Chair is interviewing, being accompanied by counsel or a support person, as anticipated by paragraph 12 of [Minute 1](#)).
10. The Inquiry is fully entitled to hold the inquiry, or any part of it, in private (see section 15(1)(c)). Public access to meetings or interviews to be convened or held by the Inquiry is restricted in accordance with paragraph 16 of [Minute 2](#).
11. In deciding to hold parts of the Inquiry in private and restrict public access to the Inquiry, the Inquiry has taken into account the criteria outlined in section 15(2) of the Act which are:
  - a. the benefits of observing the principle of open justice;
  - b. the risk of prejudice to public confidence in the proceedings of the Inquiry;
  - c. the need for the Inquiry to ascertain facts properly;
  - d. the extent to which public proceedings may prejudice the security, defence or economic interests of New Zealand;
  - e. the privacy interests of any individual;
  - f. whether it would interfere with the administration of justice, including any person's right to a fair trial, if an order were not made under section 15(1) of the Act; and
  - g. any other countervailing interests.

## **Applications for legal assistance**

12. The Inquiry Chair does not anticipate that any person meeting with, or being interviewed by, the Inquiry Chair will require any form of legal assistance. Therefore, it is unlikely that reimbursement of legal costs will be needed.
13. Nonetheless, if any person wishes to request that the Inquiry make a recommendation to the Chief Executive of DPMC that funding be granted for the purpose of providing legal assistance to a person under section 18 of the Act, the Inquiry expects the following matters to be addressed in any request:
  - a. the likelihood of hardship to a person if legal assistance is declined;
  - b. the reason why legal assistance is considered necessary and why the applicant cannot reasonably be expected to pay for that assistance;
  - c. the amount sought, the seniority of the relevant lawyer, the number of hours anticipated and the hourly rate;
  - d. the nature and significance of the contribution that the person will, or is likely to, make to the Inquiry;
  - e. the extent to which legal assistance is, or is likely to be, required to enable the Inquiry to fulfil its purpose; and
  - f. any other matters relating to the public interest which the Inquiry may request.

**Public Inquiry into the Earthquake Commission**

Issued under the authority of the Inquiry Chair, Dame Silvia Cartwright, on 17 June 2019.