



Minute 2: Inquiry meeting procedure and information gathering

Originally issued 17 July; re-issued and effective as of 27 September 2023¹

1. The purpose of the Inquiry is to strengthen Aotearoa New Zealand's preparedness for, and response to, any future pandemic by identifying those lessons learned from New Zealand's response to COVID-19 that should be applied in preparation for any future pandemic.
2. In addition to gathering publicly available information, the Inquiry is meeting with key organisations, decision-makers and a range of other individuals and organisations to discuss information that has been provided to, or reviewed by, the Inquiry, along with their perspectives on the measures which were or were not implemented and lessons that might be applied in preparation for a future pandemic.
3. This Minute sets out the Inquiry's procedure for meetings and related issues. This procedure has been developed to assist the Inquiry to obtain the facts, and particularly to encourage frankness on the part of those providing information to the Inquiry. The Order establishing the Inquiry specifically provides that the Inquiry must operate in a way that:
 - a. does not take a legalistic and adversarial approach,
 - b. uses information that is publicly available,
 - c. uses the most efficient and least formal procedures to gather any additional necessary information.

Meetings with the Inquiry

4. Whilst the Inquiry has the power to, it does not intend to summon witnesses, or take evidence on oath.
5. Meetings with the Inquiry are private and confidential. Neither the public nor media will be entitled to attend without the Commissioners' permission.
6. No person will be permitted to cross-examine those the Commissioners are meeting with.
7. Attendees at meetings may bring a support person² and/or legal counsel, provided reasonable notice is given of the name of that person and whether they are attending as a support person or legal counsel. Those meetings and interviews will be arranged as far as possible at dates, times and venues that accommodate the needs of those attending.

¹ Revised on 27 September 2023 to clarify the approach to and meaning of support person, to revise the Inquiry's procedure to include the recording of meetings, to clarify the meaning of public service agency, and to clarify that names of interviewees may be published as part of the Inquiry's regular public communications.

² As used in this Minute, "support person" means a person that an interviewee would like to have present to provide emotional or cultural support. A support person is also subject to the confidentiality requirements and non-publication orders referred to in paragraphs 11 and 12.

8. Meetings or interviews may be attended by Commissioners and/or members of the Inquiry secretariat, including counsel assisting the Inquiry, but no other person (other than a support person or legal counsel in respect of whom notice has been given in advance in accordance with paragraph 7) may attend without the prior permission of Commissioners.

Contents of meetings

9. All Inquiry meetings will be recorded by the Secretariat. Recordings will be held securely by the Inquiry and may be made available to interviewees for verification or natural justice purposes. No other recordings may be made of Inquiry meetings without prior permission of the Commissioners.
10. Notes will also be taken by members of the Secretariat of all meetings with the Inquiry. Interviewees at meetings may also take notes solely for their personal use and can request in advance to have their own notetaker attend.
11. It is important that individuals and organisations can be free and frank with the Inquiry. Further, some of the information the Inquiry receives will be subject to privacy, confidentiality and natural justice considerations. Accordingly, the Inquiry made interim orders under s 15(1) of the Inquiries Act 2013, prohibiting publication of evidence or submissions to the Inquiry.³ The order applies to the contents of meetings⁴, and recordings or notes of meetings, including those made by meeting attendees or by a support person for, or legal counsel of, an attendee, or other person attending with the Commissioners' permission (if any).
12. Having considered the criteria under s 15(2) of the Inquiries Act 2013, the Inquiry now makes permanent non-publication orders under s 15(1) in respect of any notes or recordings of Inquiry meetings held with current or former employees of public service agencies⁵. All other meeting notes or recordings are expected to be made subject to permanent non-publication orders prohibiting publication of meeting notes and recordings at the conclusion of the Inquiry, unless Commissioners indicate otherwise at the beginning of the meeting.

Use of information obtained at meetings and attribution

13. While meetings are private and confidential, information obtained at meetings will form the basis of the Inquiry's analysis and findings, that in turn will inform the final report and recommendations.

³ Minute 1: Interim non-publication – evidence and submissions received by the Royal Commission of Inquiry into COVID-19 Lessons, 2 June 2023.

⁴ For the avoidance of doubt, this includes what is said by any attendee (including Commissioners or members of the Inquiry secretariat).

⁵ For the purposes of this Minute and the Inquiry, "public service agency" means an agency set out in schedule 2 to the Public Service Act 2020, as well as NZ Police, NZ Defence Force, Parliamentary Counsel Office, the Reserve Bank of New Zealand, Accident Compensation Corporation, Kāinga Ora–Homes and Communities and Waka Kotahi New Zealand Transport Agency.

14. If the Inquiry considers there is a particular reason for attributing information to an identified individual or organisation, the Inquiry will go back to the individual or organisation and seek their agreement to this. Any attribution will also be subject to natural justice and fact checking processes.
15. Information provided in meetings with the Inquiry will not be publicly attributed to a particular person without specific agreement to attribution.
16. The Inquiry expects that unless confidentiality has been requested and granted, it will publish, both in its final report and as part of its regular public communications (and on its website):
 - a. the names of individuals with whom the Inquiry has requested a specific meeting one-on-one;
 - b. the names of the organisations the Inquiry has met with, along with the name of the lead individual representative of the organisation at that meeting but only, in the case of meetings with public service agencies, where that person does or did hold the rank of deputy chief executive (or equivalent) or above.
17. Names of other staff attending those public service agency meetings will not be published. For any other group meetings, names will not be published.
18. The Inquiry nonetheless expects, in its report and prior to reporting, including as part of its regular communication with stakeholders and the public, to publish generic information about those with whom the Inquiry has met, or themes from those meetings or interviews.

Natural justice

19. The Terms of Reference make it clear that the Commission is a forward-looking, lessons-learned inquiry. Accordingly, Commissioners will be focused on identifying strategies and measures that could strengthen New Zealand's preparedness for, and response to, any future pandemic.
20. To the extent that any final report might criticise the decisions or actions of an individual or organisation, natural justice processes will ensure that the person or organisation is given an opportunity to respond.

Legal assistance

21. Commissioners do not anticipate that any person meeting with, or being interviewed by, the Inquiry is likely to require legal assistance (which would be appropriate for the Chief Executive of DIA to fund under section 18 of the Inquiries Act 2013). Therefore, it is unlikely the reimbursement of legal costs of those meeting with Commissioners will be recommended.

Provision of information to Inquiry and publicly available information

22. Information about the COVID-19 pandemic, domestic and international, is extensive. The Inquiry cannot review it all. Those providing information to the Inquiry must identify which parts of the information are relevant to the terms of reference. Commissioners may, at their discretion, decide whether or not to review information provided to the Inquiry.
23. Additionally, Commissioners will not be deemed to have notice of all publicly available information.