



Coimisiún um Chaighdeáin in Oifigí Poiblí
Standards in Public Office Commission

**Guidelines for witnesses giving evidence
at an investigation hearing of
the Standards in Public Office Commission,
other than persons subject to an investigation**

August 2021

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Introduction

1. These guidelines (the “**guidelines**”) apply to witnesses who are directed by the Standards in Public Office Commission (the “**Commission**”) to appear before or provide documents to the Commission for the purposes of conducting an investigation hearing under section 23 of the Ethics in Public Office Act 1995, as amended by the Standards in Public Office Act 2001 (the “**Ethics Acts**”). These guidelines do not apply to persons who are the subject of the investigation. Persons subject to an investigation may instead consult the Commission’s procedures, referenced at paragraph 3 below.
2. The guidelines are based on the provisions of the Ethics Acts and are intended to assist witnesses in engaging with the Commission to ensure they are aware of:
 - what to expect as a witness before and during the hearing;
 - how the evidence and/or statements of a witness forms part of the hearing and how it may be used; and
 - the responsibilities and rights of a witness.
3. The Commission has published its procedures in respect of its complaints process, including the steps involved in conducting an investigation hearing, which are available on the [website](#). The guidelines should be read in conjunction with the procedures for making and managing a complaint - see [ethics complaints procedures](#).

Purpose of the investigation hearing

4. The Commission may decide to conduct an investigation hearing in circumstances where:
 - it has considered the report of a preliminary inquiry and has determined that there is sufficient evidence to establish a *prima facie* case in relation to a complaint against a person subject to the Ethics Acts, and it is appropriate to do so; or
 - it determines, of its own initiative, that the person subject to the Ethics Acts may have contravened their obligations under the Ethics Acts.
5. At an investigation hearing, which is generally held in public, all relevant available evidence is heard by the Commission in relation to the alleged complaint. Witness testimony is a vital source of information and supports the Commission in arriving at its findings.
6. Insofar as is possible, witnesses will be informed, in advance of their attendance date, of the general matter on which they will be expected to give evidence or provide other assistance. This will enable witnesses to give maximum assistance to the Commission in their deliberations.

Communication with witnesses

7. Communications from the Commission to witnesses will generally issue through the Legal Services Unit, who provide legal advice and support to the Commission.
8. Communications requesting or directing witnesses to attend will be in writing, providing contact details and setting out the date, time and location of the proposed hearing.

9. This communication will also invite the person to:
 - where relevant, make a written statement; and
 - make any other requests he/she wishes the Commission to consider (including whether he/she wishes to be accompanied).
10. Proposed witnesses will be provided with a copy of the guidelines.
11. The Chairperson of the Commission may, at his/her discretion, direct the attendance of witnesses to attend before the Commission for the purposes of giving evidence. Where such a direction has issued, it is a criminal offence not to attend the hearings without just cause.

Written witness statements

12. In advance of the investigation hearing, a witness may be invited to make a written statement or be interviewed by Secretariat staff, working on behalf of the Commission, for the purposes of taking a witness statement.
13. All statements will be circulated to Commission members and other parties in advance of the hearing and will form part of the evidence considered by the Commission.

The investigation hearing

14. Investigation hearings are generally held in the offices of the Commission. The room is set up to provide for the attendance of the six members of the Commission, legal teams (Commission's legal representatives and legal representatives for the respondent), the witnesses and members of the public/media. Investigation hearings are recorded by a stenographer and transcripts are prepared as a formal record of the proceedings.
15. Alternative arrangements may be considered in exceptional circumstances at the discretion of the Commission, including when remote working measures are in place and/or in accordance with public health advice.

Role of the witness

16. A witness is required to give evidence under oath or affirmation. A witness who gives sworn evidence that is untrue, and that the person knows to be untrue, may be guilty of perjury, which is a criminal offence.
17. Witnesses are required to co-operate with the proceedings and with the directions of the Chairperson. A person who does not obey a direction or decision of the Chairperson may be guilty of an offence – see page 17 of the ethics complaints procedures for further information.
18. A witness who gives evidence at a hearing is entitled to the same privileges and immunities as a witness in the High Court.
19. A witness should be mindful of maintaining confidentiality as required, particularly for investigation hearings held in private. A witness should not discuss details of the investigation with anyone, including other witnesses, apart from their own or the Commission's legal representatives.

20. Disclosure of details regarding an investigation hearing held in private, or where parties have been directed to maintain the confidentiality of the hearing, is an offence under the Ethics Acts – see page 17 of the ethics complaints procedures for further information.

Attendance at investigation hearings

21. On the day of the hearing, a witness:
- will sit in the area reserved for the public, or other designated area, until they are called to testify;
 - will be required to swear an oath or affirmation before they give evidence;
 - can expect to be examined and cross-examined by legal representatives for the Commission and for the respondent as appropriate;
 - may be questioned by the Commission.
22. The testimony of a witness will be recorded by the stenographer in attendance at the hearing. This transcript of the hearing will assist the Commission in its deliberations and arriving at its findings.
23. After an investigation hearing, the Commission will prepare a written report setting out its findings and determinations, which will be published on the Commission's website. The transcript of the hearing will be appended to the Commission's report unless the hearing was held in private.
24. Generally, there will be no further contact with a witness once the investigation hearing has concluded, unless further clarification is required.
25. Public hearings may be attended by the media and members of the public, in addition to the other parties concerned. For more information on attendees at hearings see page 14 of the Complaints Procedures.
26. Where a hearing of the Commission is held in virtual format, using online facilities, a witness will be contacted in advance with any necessary log-on information and details of what to expect. Should the witness have any difficulty in procuring access to suitable online facilities, he/she should notify the Commission. The Commission may arrange access to the necessary facilities in person at the Commission's offices.

Witness expenses

27. A witness who attends an investigation hearing, usually held in the Commission's offices in Dublin, may be entitled to reasonable vouched expenses at the discretion of the Commission. The Commission will consider reimbursement of out-of-pocket expenses incurred by any ordinary witness as a result of having to give evidence. These expenses must be reasonable vouched expenses and could include;
- travel expenses to/from the hearing venue – every effort should be made to use public transport where possible
 - subsistence costs – overnight accommodation and meals
28. **Claims not supported by vouchers will not be paid.**

29. If a witness thinks they may incur expenses directly as a result of being required to appear at an investigation hearing, other than standard travel and subsistence costs, they must submit a statement of the nature and estimated level of cost for approval by the Commission in advance of the hearing. The Commission will consider any request for the payment of such expenses on an exceptional basis.
30. The Commission reserves the right to refuse to reimburse any expenses that are not properly vouched, and, in its opinion, are not reasonable or have not been incurred directly as a result of appearing as a witness. No expenses will be provided for virtual hearings.