

Direction 7 – Warning Letters



In terms of section 17 of the Inquiries Act 2005 (“the Act”) and pursuant to rules 12 to 14 of the Inquiries (Scotland) Rules 2007 (“the Rules”), Lord Brodie (“the Chair”) of the Scottish Hospitals Inquiry (“the Inquiry”) directs that:

1. Where the Chair considers that any person may be criticised in the report or any interim report of the Inquiry to the Minister in terms of section 24 of the Act (“the Report”), he will send to that person a warning letter as provided for by Rule 12 of the Rules (“a Warning Letter”). Any Warning Letter will be issued by email only.
2. A Warning Letter will be sent prior to the submission of the Report to the Minister and the publication of the Report in terms of sections 24 and 25 of the Act.
3. The contents of a Warning Letter will conform to the requirements of rule 12 of the Rules. In particular, it will:
 - a. state what the criticism or proposed criticism is;
 - b. contain a statement of any facts that the Chair considers may substantiate the criticism or proposed criticism;
 - c. refer to any evidence or documents which may support those facts;
 - d. invite the recipient of the Warning Letter to make a written statement if the person wishes specifying the reasons why criticism or proposed criticism should not be made;
 - e. specify the date by which such written statement must be received by the Inquiry (via legal@hospitalsinquiry.scot); and
 - f. note that the information is subject to confidentiality restrictions.
4. The contents of a Warning Letter will be subject to an obligation of confidence owed separately by each member of the inquiry team to the recipient. The contents of a Warning Letter will be subject to an obligation of confidence owed by the recipient and, separately, by the recipient’s recognised legal representative should it have been disclosed under rule 12(6), to the Chair as provided for by rule 13 of the Rules. These obligations are additional to such restrictions on the disclosure of evidence, documents and information as have previously been made by the Chair.
5. Should a recipient wish to disclose the contents of a Warning Letter to any other person than their recognised legal representative they shall apply to the Chair in writing to waive the obligation of confidence. This waiver must be applied for and granted before the disclosure is made. There will be no change to the date by which any statement must be received by the Inquiry as a result of any such waiver being applied for and granted.

6. Where the recipient of a Warning Letter wishes to make a written statement they must include in their statement details including:
 - a. In the case of a witness by reference to the name of the witness or witnesses and the relevant page or pages in the transcript of evidence or witness statement, and
 - b. In the case of a document by reference to the relevant page or pages in a specified bundle of evidence.
7. The obligation of confidence owed by the Chair to the recipient of a Warning Letter ends when the Report is signed in accordance with section 24(4) of the Act. All other obligations of confidence as set above end when the Report is published under section 25 of the Act.
8. This Direction is effective from the day after it is made and will remain in force until it is revoked or varied. The Chair may supplement or vary it where he considers that it is necessary or fair to do so.

Lord Brodie
Chair of the Scottish Hospitals Inquiry
25 October 2024