

What role do HE employees have to play in public inquiries?

26 April 2023

With the recent increase in the call for public inquiries in the UK – particularly the Covid-19 Inquiry – we consider the role of Higher Education (HE) institutions and its employees in the inquiry process.

Public inquiries can often result following a major accident or disaster, or when something goes seriously wrong within government or a public body. They can call upon individuals from universities to provide statements or even to give oral evidence.

Many within the HE sector have recently been contacted in relation to the Covid-19 Inquiry, due to their role as independent experts to SAGE or similar think tanks, with requests to provide evidence relating to advice they gave, interpreted or disseminated during the pandemic.

A unique role as independent experts

It's recognised that those in academia have a unique role as independent experts on science, behaviour, medicine and a whole host of other topics which assist those charged with finding facts and making recommendations during the course of public inquiries.

So, it's important — now more than ever — for those in the sector to understand the purpose of a public inquiry, how it operates and what to do if called upon to provide evidence.

1. Public inquiries are used to establish facts, learn lessons so that mistakes are not repeated, restore public confidence and to determine accountability.
2. The constitution of a statutory inquiry is governed by the Inquiries Act 2005 and informed by the Inquiry Rules 2006.
3. The Chair can designate a body or a person at any time during the course of the inquiry, as a core participant. Before doing so, they will consider whether that person/body played a role, had a significant interest in an important aspect of any matters relating to the inquiry and whether they might be subject to any criticism during the inquiry process, or within the final report.
4. Any information required by the inquiry will be set out in writing and is known as a Rule 9 Request; the response to that request will be contained in a witness statement called a Rule 9 Witness Statement. The request can be made either to the institution (or a department within it), or to a particular individual. If the former, the institution will need to determine who best can respond to the request. You do not need to be a core participant to provide evidence.
5. The Chair can request the individual providing the statement to give oral evidence. This requires the person to attend the hearings and be examined by the inquiry's counsel (Rule 10).
6. At the end of the evidence proceedings, the Chair is then required to report to the Minister who called the public inquiry. Prior to publication, the Chair must provide a copy of his report to each core participant in the inquiry.
7. The Chair will send Warning Letters (Rule 13) to any person who they consider may be or has been subject to criticism in the inquiry process, or where criticism can be inferred from the evidence provided during the inquiry proceedings, before the report is published.

The Chair's report will usually make recommendations to ensure people are kept safe and ensure that those tragic incidents do not happen again. Those recommendations can result in the creation of new regulations and legislation informed by the evidence provided to the Chair and the inquiry team during the inquiry process.

HE institutions should therefore never underestimate the importance of their contribution to those fact-finding exercises which play a fundamental part in enacting change for the better.

Key contact



Krishna Pancholi

Associate

kpancholi@brownejacobson.com

+44 (0)115 976 6250



Stephanie McGarry

Partner

stephanie.mcgarry@brownejacobson.com

+44(0)115 908 4113

Related expertise

Services

Public inquiries

Public law