



INTEGRITY IN PUBLIC LIFE

## NOTE TO MEMBERS: ADMINISTRATION OF OATHS

**All witnesses at Commission Hearings are required to swear an oath or make a solemn affirmation before giving evidence.**

### Oath

The evidence of witnesses in Court must be given either upon oath or solemn affirmation to tell the truth. The Standards Commission, by virtue of section 17(5)(b) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 is empowered to administer oaths to witnesses at Hearings.

A witness should raise his/her right hand and repeat the oath after the Chair.

The oath is administered by the Judge in Court which adds to the solemnity of the procedure. The Chair at a Standards Commission Hearing should administer the oath immediately before a witness gives their evidence. The form of words is as follows:

### Wording

“I swear by Almighty God that I will tell the truth, the whole truth and nothing but the truth.”

If a witness is deaf or does not understand English there is authority that they may take the oath and give evidence through a sworn interpreter. (HMA versus Howison, 9S.L.R70; and Alison 11 439)

### Affirmation

A witness who objects to being sworn is permitted to make a solemn affirmation instead of taking an oath in the following terms:

“I solemnly, sincerely and truly declare and affirm that I will tell the truth, the whole truth and nothing but the truth.”

(Sections 5 and 6, Oaths Act 1978)

In addition, where a witness does not wish to swear an oath, and where it is not reasonably practicable without inconvenience or delay to administer an oath in the manner appropriate to his/her religious belief, that person may be permitted, and may be required, to make a solemn affirmation. (Section 5(2) and (3), Oaths Act 1978)

#### **Process from start to finish:**

1. Witness is called
2. Witness enters hearings room and is shown where to sit by Clerk
3. Witness sits at witness table
4. Chair explains that witness will be questioned by questioner, cross examined by the other side, if present, and re-examined by questioner and may also be asked questions by panel
5. Chair explains that witness is to be put on oath or to requested to affirm
6. Chair asks if witness prepared to take oath
7. If yes, Chair says "please stand, raise your right hand (Chair also stands and raises his/her right hand and keeps it up until witness finished oath) and repeat after me "I swear by Almighty God (pause while witness repeats) that I will tell the truth, the whole truth and nothing but the truth" (pause while witness repeats)
8. Chair asks witness to please be seated
9. If not prepared to take oath, Chair asks if witness is prepared to read the affirmation
10. If yes, witness reads the affirmation
11. Chair then directs the questioner to begin

#### **Other acceptable forms of the oaths above:**

##### **Hindu**

Members of the Hindu faith will omit the words "I swear by Almighty God" and substitute the words "I swear by Gita".

##### **Jew**

Members of the Jewish faith use the oaths above although some may wish to affirm.

##### **Muslim**

Members of the Muslim faith will omit the words "I swear by Almighty God" and substitute the words "I swear by Allah".

##### **Sikh**

Members of the Sikh faith will omit the words "I swear by Almighty God" and substitute the words "I swear by Guru Nanak".