



## EXPLAINER - WHAT ARE TERMS OF REFERENCE? (FOR A SCOPING EXERCISE OR PUBLIC INQUIRY)

In both a **Scoping Exercise** and a **Public Inquiry**, the **Terms of Reference (ToR)** serve as the formal document that defines the boundaries, purpose, and authority of the review. Whether the process is preliminary (scoping) or fully investigative (public inquiry), the ToR provide the structural and legal framework that guides decision-making, evidence gathering, and reporting.

### Definition and Function

The **Terms of Reference (ToR)** are the officially approved instructions that set out:

- The **issues to be examined**
- The **objectives to be achieved**
- The **powers and limitations** of the process
- The **methodology and procedures** to be followed
- The **expected outputs and reporting arrangements**

In a **Scoping Exercise**, the ToR are typically narrower and exploratory, designed to assess the extent of issues, identify key questions, and determine whether a full investigation is required.

In a **Public Inquiry**, the ToR are more formal and legally grounded, establishing a comprehensive mandate for fact-finding, accountability, and recommendations for reform.

### Core Components (Applicable to Both Contexts)

1. **Purpose and Objectives**
  - Clarifies why the exercise or inquiry is being undertaken.
  - May include identifying root causes, assessing systemic failures, or recommending improvements.
2. **Scope and Boundaries**
  - Defines the timeframe, events, individuals, organisations, or policies under review.
  - Prevents scope creep and ensures proportionality.
3. **Authority and Powers**
  - In a Scoping Exercise, powers may be administrative (document review, stakeholder interviews).
  - In a Public Inquiry, powers may be statutory, such as compelling evidence under legislation like the Inquiries Act 2005.
4. **Governance and Leadership**
  - Identifies the appointed chair, panel, or independent reviewer.
  - For example, the Grenfell Tower Inquiry operated under formal Terms of Reference defining its investigative remit.
5. **Methodology and Reporting**
  - Specifies consultation processes, evidence gathering methods, and timelines.
  - Establishes whether findings will be advisory (scoping) or determinative and recommendation-focused (public inquiry).



### **Key Distinctions Between the Two**

<b>Feature</b>	<b>Scoping Exercise</b>	<b>Public Inquiry</b>
Nature	Preliminary / Exploratory	Formal / Investigative
Legal Status	Often non-statutory	Frequently Statutory
Powers	Limited, advisory	May compel witnesses/documents
Outcome	Assessment and recommendations on next steps	Findings of fact and systemic recommendations

### **Importance of Clear Terms of Reference**

Well-defined **Terms of Reference (ToR)** are essential in both contexts because they:

- Promote **transparency and accountability**
- Manage stakeholder expectations
- Safeguard procedural fairness
- Ensure efficient use of time and resources
- Provide defensibility against legal or reputational challenge

Ambiguity in **Terms of Reference (ToR)** can lead to delays, disputes over jurisdiction, or criticism that the process is either too narrow or overly expansive.

### **Conclusion**

In both a Scoping Exercise and a Public Inquiry, the Terms of Reference function as the governing blueprint of the process. While differing in formality and legal authority, in each case the **Terms of Reference (ToR)** define the scope, objectives, powers, and reporting framework, ensuring that the review is structured, transparent, and fit for purpose.