

TERMS OF REFERENCE

CHAIR'S NOTE ON INTERPRETATION

The purpose of this note

1. The terms of reference (ToR), set by the Scottish Government, set out the matters that the Inquiry has been established to investigate.
2. This note outlines my view, as Chair, as to how the ToR should be interpreted. It is intended to assist core participants, witnesses and members of the public to understand the issues and time periods that will be investigated by the Inquiry, and those that will not.
3. By setting out this interpretation at an early stage, I hope to ensure that everyone with an interest in the Inquiry has a clear understanding of its focus and purpose.

Terms of reference

4. The Scottish Government published the ToR on 9 December 2025. That coincided with the formal setting up of the Inquiry. As is provided for in the Inquiries Act 2005, the ToR are set by the Cabinet Secretary in consultation with me, as Chair of the Inquiry. The full ToR are:

To examine the investigation carried out by Strathclyde Police, under the direction of the Crown Office and Procurator Fiscal Service, into the murder of Emma Caldwell, including:

- (i) the investigative strategy and decision making;*
- (ii) the giving of direction by the Crown Office and Procurator Fiscal Service;*
- (iii) any steps which could reasonably have been taken and, had they been taken sooner, might have resulted in the offender being apprehended and prosecuted at an earlier stage;*
- (iv) the roles and responsibilities of those involved; and*
- (v) any other factors relevant to the circumstances of the investigation and related prosecution and to make recommendations to address any finding in that regard.*

To examine whether any failures in training, procedures, operating models or systems of working contributed to failures (if any) by Strathclyde Police or the Crown Office and Procurator Fiscal Service in relation to the investigation and to make recommendations to address any finding in that regard.

To report to Scottish Ministers on the above matters and to make recommendations as soon as reasonably practicable.

5. The ToR make it clear that the focus of the Inquiry's investigation is on the Strathclyde Police investigation into the murder of Emma Caldwell, as instructed by the Crown Office and Procurator Fiscal Service. It is well established from reporting around this case and the prosecution of Iain Packer that he first became known to the Strathclyde Police investigation in 2005. I was keen that the ToR should enhance, rather than diminish, our focus on the key period when the investigation into Emma Caldwell's murder failed to pursue Iain Packer as a suspect.

6. The initial investigation into the murder of Emma Caldwell, carried out by Strathclyde Police, spanned the period between 2005 – 2008 and culminated in proceedings against four men which were ultimately abandoned. The Lord Advocate ordered the re-investigation of the murder of Emma Caldwell in 2015. In order to investigate both the Strathclyde Police investigation and the period before the re-investigation began, this Inquiry will investigate the period from the commencement of the Strathclyde Police investigation in 2005 up to and including the Lord Advocate's decision to re-investigate in 2015.
7. Police Scotland was established on 1 April 2013, following the merger of the regional forces, including Strathclyde Police, that existed in Scotland prior to that point. There have been some concerns voiced that, because the ToR refer only to Strathclyde Police, the actions of Police Scotland do not fall within the ToR. The Cabinet Secretary has made clear in response to these concerns that Police Scotland inherited all the rights and responsibilities of Strathclyde Police. Taking that into account, along with the breadth of the ToR, I am satisfied that I can examine the actions of Police Scotland during the period 2013 – 2015.
8. As I have noted above, it is important that, as well as explaining what is covered by the ToR, I set out what is not covered. The police re-investigation that began in 2015 and led to the successful prosecution of Iain Packer, does not fall within the ToR. The police investigation into the offences committed by Iain Packer against numerous other women, is also not covered by the Inquiry ToR. I do not believe that an examination of these matters would assist in understanding the key period under consideration and why, during the Strathclyde Police investigation, Iain Packer was not treated as a suspect. To examine both of those investigations would also add significantly to the work of the Inquiry and the length of time needed to produce a final report.
9. It is important to draw a distinction, which I consider material to the proper conduct of the Inquiry, between the Inquiry's subject matter and the evidence that may be considered in examining it. These are not the same thing. The Inquiry's subject matter is defined by the ToR and the time period set out

above: the investigation into Emma Caldwell's murder instructed by the Crown Office and Procurator Fiscal Service, from 2005 to 2015. That is what the Inquiry is examining. Evidence, however, is not so confined. The Inquiry may consider evidence that post-dates the 2015 period in order to better understand the period as set by the ToR. For example, evidence from the trial of Iain Packer in 2024 may assist the Inquiry in understanding that earlier period. I remain free to consider such evidence where it is relevant and will do so. The Inquiry has committed to follow the evidence wherever it leads. That commitment is consistent with this approach. Relevance will always be assessed by reference to the Inquiry's ToR.

10. I understand that there may be individuals and organisations that want a more expansive interpretation of the ToR. I also understand that concerns have been voiced about the various periods of delay throughout the investigation(s) into Emma's murder. It is important, however, that the Inquiry has a core purpose and focus. That is why I consider that the focus of this Inquiry should be on the time period between 2005 and 2015. It is important in order to ensure that the public and everyone participating in this Inquiry understand what is being investigated. I am confident that our focus will assist us in delivering a thorough investigation of the important issues involved within a reasonable time. This is even more important in view of the various delays that have already occurred.

11. The Inquiry will conduct its investigations in accordance with this interpretation of the ToR.

Lord Scott

Chair of the Emma Caldwell Inquiry

30 September 2026