

DATA PROTECTION – IMPLEMENTATION OF THE EU GENERAL DATA PROTECTION REGULATION (EU) 2016/679 AND THE DATA PROTECTION ACT 2018

This note explains what types of information the Edinburgh Tram Inquiry (“the Inquiry”) holds and what it does with it. It also explains how a person may make a request for information that the Inquiry holds about them.

What information does the Inquiry hold and what is the legal basis for holding the information?

1. The Inquiry obtains and holds information about people that is relevant to the Inquiry’s terms of reference.

2. The legal basis for holding this information is Article 6(1)(e) and 8(2)(g) of the General Data Protection Regulation 2016/679. The Inquiry is holding the information in exercise of functions conferred upon it by the Inquiries Act 2005 and for reasons of substantial public interest.

3. The Inquiry may hold some of the following types of information about a person:

- name
- date of birth
- contact details
- financial information
- bank account details, e.g. to enable the reimbursement of reasonable expenses
- employment history and status
- involvement in the Edinburgh Tram project
- political opinions
- religious beliefs
- trade union membership
- data concerning health

4. The Inquiry has had contact with people for many different reasons and, as a result of that contact, the Inquiry may hold information about them. In particular people may have contacted the Inquiry to:

- ask about how to give evidence
- provide evidence or documents to the Inquiry
- apply for a job with the Inquiry
- provide a service to the Inquiry
- talk to the Inquiry team because they represent a witness
- ask the Inquiry to pay their travel expenses or other fees.

5. The Secretary to the Inquiry is the Inquiry’s “data controller”. This means that she is responsible in law for all information, how it is held and used, how and when it is destroyed, or otherwise it is retained.

6. Everyone working for the Inquiry is required to use the information that the Inquiry holds correctly and must keep it secure at all times.

Why does the Inquiry hold information?

7. The Inquiry obtains and holds information as part of its work. The work of the Inquiry is described on the Inquiry's website www.edinburghtraminquiry.org and is outlined in the "terms of reference", which sets out the Inquiry's remit as determined by Scottish Ministers.

8. In short, the terms of reference require the Inquiry to report on matters relating to the Edinburgh Trams Project, specifically (1) why the project incurred delays, cost considerably more than originally budgeted and delivered significantly less than was projected, and (2) what were the consequences of the failure to deliver the project on time, on budget and to the extent originally planned. The Inquiry is also required to (3) make recommendations as to how such failures might be avoided in future projects of a similar nature.

9. In the course of their work, members of staff at the Inquiry met with people who provided information about their involvement in the Edinburgh Trams project and offered their views on the issues that the Inquiry is required to consider in line with its terms of reference. The discussions at those meetings may have been recorded, with the agreement of the person being interviewed. Recordings helped members of the Inquiry team prepare full and accurate witness statements which, once signed, were lodged as evidence to the Inquiry. Once the witness statement had been signed, the recording of the interview was destroyed.

10. Some material gathered by members of the Inquiry team is considered to be sensitive or confidential and not necessarily of key significance to the Inquiry's work. Such material may be "redacted". This means blacking out any words in the document which could result in unwarranted disclosure of such information.

11. The Inquiry requires to create and keep a record of its work. At the end of the Inquiry's work, those records will be transferred to the National Records of Scotland to be archived. This means that some information and records, even if not publicly available, will be transferred to the Keeper of the Records of Scotland. Transfer of the material will be undertaken in accordance with all relevant legislation in force at that time. It will be for the Keeper to determine what material should be made publicly available, again in accordance with all relevant legislation.

Subject access request

12. A person may ask to see all the information that the Inquiry holds about them. The Data Protection Act 1998, the General Data Protection Regulation and in time the Data Protection Act 2018, give a person the right to ask. To do so, the person needs to send the Inquiry a "subject access request". Such a request must be made in writing and can be emailed to the Inquiry at: info@edinburghtraminquiry.org or by post to: The Secretary to the Inquiry, Edinburgh Tram Inquiry, Area G-C North, Victoria Quay, Edinburgh EH6 6QQ.

13. If the Inquiry holds information about a person which it is using as part of its investigations, it may not be possible to release that information if it would interfere with the conduct of the Inquiry's investigations. In that event, the Inquiry will write to explain why it is not releasing the information.

14. If the Inquiry holds information about a person that is not connected to its investigations, or it can release the information without interfering with the conduct of its investigations, it will respond with the information requested that it holds within one month.

15. If the person making a subject access request is dissatisfied with how the request has been handled, please write to the Secretary to the Inquiry by e-mail at info@edinburghtraminquiry.org or by post or personal delivery to the address above. If they are still dissatisfied, they can contact the Information Commissioner's Office online at <https://ico.org.uk/concerns/getting/> or by calling their helpline on 0303 123 1113.

25 May 2018