

Inquiry Direction No 11 – Warning Letters

In terms of section 17(1) of the [Inquiries Act 2005 \(“the Act”\)](#), which enables Lord Hardie (“the Chairman”) to decide on the procedure and conduct of the Edinburgh Tram Inquiry, he has directed as follows:

1. This Direction is effective from the day after it is made and will remain in force until it is revoked or varied.
2. The Chairman may supplement or vary the application of this Direction where he considers that it is necessary or equitable to do so.
3. This Direction applies where the Chairman is required to send a warning letter in accordance with the provisions of rule 12(1) and (7) of the [Inquiries \(Scotland\) Rules 2007 \(“the Rules”\)](#).
4. The provisions of rule 3 of the [Rules](#) apply to the service of a warning letter and any response thereto. A warning letter is validly served if sent by e-mail to the designated email address provided by the recipient of the warning letter (“the recipient”) to the Secretary to the Inquiry or, where no e-mail address has been provided by the recipient, by first class recorded delivery post to the designated postal address provided to the Secretary to the Inquiry.
5. Subject to the provisions of paragraph 6, the recipient may not disclose to anyone, other than his or her recognised legal representative, that he or she has received a warning letter or the nature of its contents.
6. If the recipient wishes to disclose the existence of the letter or its contents to someone other than his or her recognised legal representative the recipient must make an application to the Chairman to do so, stating the name, address and designation of the person to whom disclosure is sought and the reasons for disclosing the existence of the letter or its contents to that person. If the Chairman agrees to the recipient disclosing the contents of a warning letter to such a third party he may impose such conditions on such disclosure as he considers appropriate.
7. Unless the Chairman agrees to such disclosure the recipient is prohibited from doing so.
8. The recipient may submit a response to the warning letter in writing, to be received no later than 5 pm on Friday 2 December 2022 and unless the provisions of paragraph 9 apply the Chairman shall not be required to have regard to any response from the recipient received after that deadline.
9. Any request for an extension to the time for response must be made in writing to the Secretary to the Inquiry to be received prior to the date specified for the response and shall only be granted on cause shown.
10. Receipt of any written response to a warning letter will be acknowledged but the Chairman and the Inquiry team on the Chairman’s behalf will not enter into any

further correspondence or other communication regarding the terms of the proposed criticism or as to what action, if any, the Chairman may take in light of the response.

11. Where the recipient submits a response to the Chairman which is received on or before 5 pm on Friday 2 December 2022 the Chairman will not take any further action to finalise his Report to the Scottish Ministers until he has had regard to the issues raised by the recipient.

1 November 2022