

Questions and Answers - Core Participants

Q1. What is a core participant?

A core participant is a person who will be expected to have a key role during the Inquiry. A core participant may attend for all or substantial parts of the proceedings, either personally or by their recognised legal representatives, and participate actively in the proceedings by making statements or asking questions, subject to the control of the Chairman.

For the purposes of an application to be a core participant, references to a person include an individual, Scottish Ministers and any entity such as a company, a partnership, a local authority, a community council, a residents' association, a trade association or a professional body or other organisation representing the interests of its members whether or not it is a legal entity.

Q2. Who can apply to be a core participant?

This is prescribed in Rule 4 of the [Inquiries \(Scotland\) Rules 2007](#) which enables the Chairman to designate as core participants individuals or organisations:

- (a) who played, or may have played, a direct and significant role in relation to the matters to which the Inquiry relates;
- (b) who have a significant interest in an important aspect of the matters to which the Inquiry relates; or
- (c) who may be subject to significant or explicit criticism during the proceedings of the Inquiry or in its report.

However, no one may be designated a core participant without their consent.

Q3. Can a representative body be designated as a core participant?

Yes, an organisation may be designated. There may be considerable advantages in designating a representative body that can reflect a wider range of interests than an individual member of that organisation could.

Q4. What is the role of a core participant or a recognised legal representative?

Rule 9 of the [Inquiries \(Scotland\) Rules 2007](#) enables the Chairman to permit a core participant or the recognised legal representative of a core participant to question witnesses in some circumstances. Rule 10 enables a core participant or the recognised legal representative of a core participant to make opening and closing statements on behalf of those they represent, subject to the Chairman's discretion. The legal representatives of core participants and others have an

important role in assisting the Inquiry in the obtaining of written statements and by suggesting lines of questioning to be taken by counsel to the Inquiry.

The Inquiry is not a trial. It is a process designed to assist the Chairman to elicit the information required to enable him to report on the terms of reference. The procedure is inquisitorial rather than the adversarial procedure normal in the courts. In particular it will be for the Chairman, not participants' legal representatives, to decide what questions are permitted. Most of the questioning of witnesses at oral hearings will normally be done by counsel to the Inquiry.

Q5. What is the difference between a core participant and a witness?

The difference is best understood by reference to their roles. A witness is someone who has information relevant to the Inquiry which the Inquiry proposes to take, either in the form of written evidence or orally or both. Apart from giving evidence, a witness will not generally take the active part in the Inquiry that is expected of a core participant.

Q6. Are core participants entitled to have legal representation?

Yes. However, Rule 6 of the [Inquiries \(Scotland\) Rules 2007](#) enables the Chairman to direct that core participants with similar interests should share legal representation. Subject to that qualification, if a core participant appoints a qualified lawyer the Chairman must regard that lawyer as the person's "recognised legal representative".

Q7. Must core participants have legal representation?

It is not obligatory for core participants to be legally represented. However, it is usual for core participants to be legally represented. Apart from the advantage to the core participant of having legal representation, the management and conduct of oral hearings can be facilitated by the efficient and effective participation of skilled lawyers.

Q8. Do core participants, automatically receive funding to be legally represented?

No. Core participants who wish to apply for funding will be asked to complete an application form.

Q9. How, and for what, can core participants get funding?

Awards of funding are intended to enable those who would not otherwise be able to instruct legal representatives to do so. Section 40 of the [Inquiries Act 2005](#) enables the Chairman to award reasonable amounts in respect of legal representation in relation to the Inquiry. The Chairman has previously issued **Inquiry Procedure Direction No 3- Applications for legal representation at public expense**. A copy of that procedure direction can be found on the website at:

<http://www.edinburghtraminquiry.org>

Q10. How does one apply to become a core participant?

There is an application form available on the Inquiry website. Alternatively, you may contact the Secretary to the Inquiry to request a paper copy.

Q11. Is there a deadline for applying to be a core participant?

Core participants can be designated at any time during an Inquiry. However, in order to assist the management of the Inquiry as well as those seeking core participant status from the commencement of oral hearings an initial deadline has been set, whereby applications must be received at the Inquiry offices by 4 pm on Wednesday 24 June 2015. Completed applications can be sent to the Inquiry Secretary by email to evidence@edinburghtraminquiry.org.

Q12. Will everyone who qualifies for core participant status, be designated as a core participant if they apply?

Not necessarily. There is no duty under the [Inquiries \(Scotland\) Rules 2007](#) to designate every applicant who meets the criteria set out in Rule 4. Some common themes are likely to emerge which may make it possible to select representative core participants who are able to reflect a class of interests.

Q13. If someone is designated as a core participant, is this for the whole remaining period of the Inquiry?

Not necessarily. Core participant status may be conferred at any time and withdrawn at any time and may be conferred for specified time periods.

If you require any further information please contact:

e-mail: evidence@edinburghtraminquiry.org