

## **Inquiry Procedure Direction No 6 – Core Participants**

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 Inquiry, he has directed as follows:

1. In this Inquiry Procedure Direction ("this Direction") references to "any person" or 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 professional body or other organisation representing the interests of its members whether or not it is a legal entity.
2. This Direction relates to:
  - (a) applications for the designation of any person to be a core participant in the Inquiry;
  - (b) the appointment and recognition of the legal representatives of core participants; and
  - (c) communications between the Inquiry team and core participants and their recognised legal representatives.
3. This Direction is effective from the day after it is made and will remain in force until it is revoked or varied.
4. This Direction only concerns core participants and those who apply for core participant status. Further information on core participants may be obtained from the Question and Answer note on core participants.
5. This Direction is subject to, and should be read with, the provisions of:
  - (a) [the Act](#) and, in particular, section 17; and
  - (b) [Inquiries \(Scotland\) Rules 2007](#) (SSI 2007/560) ("the Rules") and, in particular, Rules 2 and 3 to 6.
6. The Chairman may supplement or vary the application of this Direction where he considers that it is necessary or equitable to do so.

### **Application for core participant status**

7. Any person wishing to apply for designation as a core participant in the Inquiry should complete Part 1 of the application form which may be downloaded from the Inquiry website at:

<http://www.edinburghtraminquiry.org/procedures>

Paper copies of the application form may also be obtained from the Inquiry Secretary.

## **General principles concerning core participant status**

8. It is the responsibility of the Chairman to determine whether a person should be designated as a core participant. Before determining whether to designate a person as a core participant the Chairman must have particular regard for the desirability of including as core participants persons who:
  - (a) played, or may have played, a direct and significant role in relation to the matters to which the Inquiry relates;
  - (b) has a significant interest in an important aspect of the matters to which the Inquiry relates; or
  - (c) may be subject to significant or explicit criticism—
    - (i) during the proceedings at the Inquiry, or
    - (ii) in the report, or any interim report, of the Inquiry.
9. However not everyone who satisfies these criteria will be designated as a core participant, and a person may be designated as a core participant although they do not satisfy these criteria. The Chairman may select and designate representative core participants who are able to reflect a class of interests, to enable reliable conclusions to be reached expeditiously and without undue expense.

## **Appointment of recognised legal representative and joint legal representation**

10. Any person applying for designation as a core participant, and who wishes to notify the Inquiry of the appointment of a lawyer to represent them, should complete Part II of the application form. If the application for designation is granted that lawyer will be the core participant's recognised legal representative in the Inquiry.
11. Where there are two or more core participants each of whom seeks to be legally represented and the Chairman considers that their positions (including their interests in the outcome of the Inquiry and the facts they are likely to rely on in the course of the Inquiry) are sufficiently similar, he may direct that those core participants shall be represented by a single recognised legal representative approved by him.
12. When the Chairman proposes to make a direction under paragraph 11 he shall give notice to the affected core participants of that proposal and shall

afford them the opportunity to provide reasons within such period as he considers appropriate why he should not make the direction. These reasons will be taken into account by the Chairman in deciding whether to require their joint representation.

13. When directing that core participants be jointly represented the Chairman will invite them to nominate, within such period as he may specify, a single qualified lawyer for that purpose. If there is no nomination within the specified period, the Chairman may nominate a qualified lawyer who, in his opinion, has sufficient knowledge and experience to act in that capacity.

## **Communications between the Inquiry team and core participants and their recognised legal representatives**

14. Where a core participant has a recognised legal representative all communications from the Inquiry team, will normally be sent only to that legal representative unless [the Rules](#) require them to be sent to the core participant in person.
15. Rule 3 of [the Rules](#) provides for documents sent by the Inquiry team to any person to be posted by first class post or sent by email to a designated postal or email address. Unless otherwise advised, the Inquiry team will treat the postal and any email address given for core participants or their recognised legal representatives in the core participant application form as their designated postal and email addresses for this purpose.
16. It is likely that core participants and their recognised legal representatives will be afforded prior access to some of the evidence provided to the Inquiry before it is made public. Any such prior access will be subject to a confidentiality undertaking by the core participant and/or any recognised legal representative in terms to be decided by the Chairman.
17. Unless otherwise indicated all correspondence about the matters referred to in this Direction should be sent to:

Email: [evidence@edinburghtraminquiry.org](mailto:evidence@edinburghtraminquiry.org)

**27 May 2015**