

Inquiry Procedure Direction No 7 – Opening Statements

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, and in terms of rule 10 of [The Inquiries \(Scotland\) Rules 2007 \("the Rules"\)](#), which enables him to direct that the provisions of that rule will not apply, he has directed that no opening statements will be made by Inquiry counsel or by, or on behalf of, core participants in the course of the Edinburgh Tram Inquiry.

Background

1. Section 17(1) of the Act provides that, subject to any provision of the Act or the Rules, the procedure and conduct of the Inquiry are to be such as the Chairman may direct. Section 17(3) of the Act requires that in making any decision as to the procedure or conduct of an Inquiry, the chairman must act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or to others).
2. Rule 10 of the Rules provides that the "recognised legal representative of a core participant may...unless the chairman directs otherwise, make an opening statement to the inquiry panel at the commencement of the first of any inquiry hearings".
3. In making this Direction that there shall be no opening statements to the Inquiry the Chairman is mindful that:
 - the Inquiry has identified a [list of issues](#) for investigation which has been published.
 - The oral hearings will involve the taking of evidence from various witnesses.
 - Rule 10 only permits one opening statement per core participant and requires it to be made on the first of any inquiry hearings.
4. Against that background the Chairman does not consider it would be helpful to him, or that it would be reasonable for counsel to the Inquiry and those representing core participants to be expected to make an opening statement dealing with the whole subject matter of the Inquiry at the commencement of the oral hearings.
5. The time and work required in relation to the preparation and delivery of such opening statements would be likely to lead to disproportionate and unnecessary expense.
6. In accordance with long standing judicial procedures in Scotland, in terms of which opening statements are not made, it is the Chairman's decision that

the Inquiry should proceed directly to the hearing of the evidence and that any statements or submissions should only be made after the evidence has been led.

7. This Direction only applies as regards opening statements and the provisions of rule 10 will apply as regards closing statements.
8. Any correspondence relating to the Direction should, be sent to:

Email: evidence@edinburghtraminquiry.org

28 October 2015