

## **Inquiry Procedure Direction No 9 – Core Participants’ Access to material before commencement of oral hearings**

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.
2. This Direction relates to:
  - (a) the provision of material by the Inquiry to core participants or their legal representatives prior to the commencement of oral evidential hearings; and
  - (b) the terms of the confidentiality undertaking to be given by each core participant and its legal representatives before they are given access to the material mentioned in paragraph (a).
3. This Direction is effective from the day after the day on which it is made and will remain in force until it is revoked or varied.
4. The Chairman may supplement or vary the application of this Direction where he considers that it is necessary or equitable to do so.

### **Access to written material by core participants**

5. Paragraph 16 of **Inquiry Procedure Direction No 6 – Core Participants** anticipated the likelihood that core participants and their recognised legal representatives would be afforded access to some of the evidence provided to the Inquiry before it is made public. It was recognised that such prior access would be subject to a confidentiality undertaking by the core participant and/or any recognised legal representative in terms to be decided by the Chairman.
6. Any such access is given on condition that core participants and their recognised legal representatives have given undertakings designed to minimise any risk to the conduct of the Inquiry, including the obtaining and evaluation of evidence and the preparation of the Report.
7. The evidence mentioned in paragraphs 5 and 6 includes:
  - (a) such documents given, produced or provided to the Inquiry in the course of its investigations which the Inquiry considers to be relevant to its terms of reference and will be used as evidence, other than any documents specified in any restriction notice or restriction order in terms of sections 19 and 20 of the Act;

(b) signed witness statements and other written answers from witnesses to questions from the Inquiry.

### **Procedure for providing access to written material to core participants**

8. The Haymarket database, to which core participants and their legal representatives already have access, will ultimately contain all material considered by the Inquiry to be relevant to its terms of reference as well as transcripts of the proceedings at the oral hearings and published documents considered by the Chairman in the preparation of his Report.
9. Intermittently the Inquiry will upload material to the Haymarket database, including, but not restricted to, written material specified in this Direction, and will notify the legal representatives of each core participant when that occurs.
10. Notwithstanding the ability of core participants and their legal representatives to access current data in the Haymarket database, access, in whole or in part, to the written material specified in paragraph 7 of this Direction will only be available to core participants and their legal representatives after receipt by the Secretary to the Inquiry of a signed undertaking in the terms specified in the Appendix to this Direction.
11. 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)

**23 March 2017**

## APPENDIX

### Form of undertaking to be signed by core participants and their legal representatives

In addition to earlier undertakings given by us as a condition of being provided with access to the database known as Haymarket, we [name of core participant] and we [name of firm of solicitors], legal representatives of [name of core participant] for the purposes of the Edinburgh Tram Inquiry, each separately undertake that (a) subject to the undertaking in paragraph (b) below, we will not disclose to any person any details of the written material specified in paragraph 7 of **Inquiry Procedure Direction No 9 – Core Participants’ Access to material before commencement of oral hearings** (“the Direction”) except where such disclosure is necessary for the purpose of preparing for and attending at the Inquiry’s oral hearings; (b) notwithstanding the generality of paragraph (a) above, except with the prior written consent of the Chairman, we will not disclose to any prospective witness the contents of any statement or answers by a witness contained within the Haymarket database unless the signed written statement or written answers of the prospective witness already appear within that database.

We also undertake that the obligations contained in this document will be imposed and enforced by each of us on any employee or other person, to whom we propose to give access to material specified in paragraphs 7 (a) or (b) of the Direction for the purpose of preparing for oral hearings.

Name of core participant: \_\_\_\_\_

Name of signatory on its behalf: \_\_\_\_\_

Position within organisation: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name of legal representative: \_\_\_\_\_

Name of signatory on its behalf: \_\_\_\_\_

Position within organisation: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_