

Rt Hon John Swinney MSP
First Minister of Scotland
St Andrews House
Regent Road
Edinburgh EH1 3DG

1 September 2026

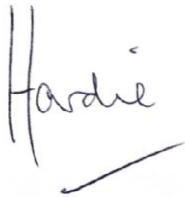
Dear First Minister

EDINBURGH TRAM INQUIRY CLOSURE

In terms of section 14 of the Inquiries Act 2005, I give notice that the Edinburgh Tram Inquiry (ETI) has come to an end.

In view of the time that has elapsed since the publication of the Report of the Inquiry, I have appended a note explaining the reason for that. I will instruct the Secretary to the Inquiry to publish a notice on the Inquiry website, advising the public that I have sent this notice, including a copy of the note.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Hardie', with a long horizontal flourish extending to the right.

Lord Hardie, Chair of the Inquiry

EXPLANATION NOTE

The ETI Report was published on 19 September 2023, and it is appropriate that an explanation is given for the delay of almost 3 years in notifying the First Minister, in terms of section 14 of the Inquiries Act 2005, that the Inquiry has come to an end.

The effect of the notification is that the powers of the Chairman of an Inquiry have come to an end, including power to enter into or extend agreements to incur expenditure necessary to fulfil the duties in terms of Rule 16 of the Inquiries (Scotland) Rules 2007 (“the Rules”), relating to the transfer of the Record of the Inquiry. Rule 16 of the Rules regulates the duties of the chairman of any Public Inquiry in respect of records management. It includes consultation with the Keeper of the Records of Scotland (“the Keeper”) on the manner and format of creating, maintaining and transferring the Record of the Inquiry; the duty during the course of the Inquiry to ensure that the Record of the Inquiry is comprehensive and well-ordered; at the end of the Inquiry, the duty to transfer the Record of the Inquiry to the Keeper. Throughout the Inquiry, the Secretary of the Inquiry and two employees, having the responsibility for document management, had regular consultations with officials in the National Records of Scotland (NRS) to ensure compliance with Rule 16.

In summer 2023, the focus of these discussions was to ensure that there was an efficient and effective transfer of the Record of the Inquiry following the publication of the Report. At the initial stage of the transfer process, NRS officials had access to all documents retained by the Inquiry, including those recovered by the Inquiry, letters, notices and emails sent to or received from third parties, and internal emails. They had to determine the documents they wished to be included as the Record of the Inquiry, to be retained by the Keeper. Some of the other documents, not included as part of the Inquiry, were to be transferred to Transport Scotland (TS), the Sponsor Department for the Inquiry. Officials in ETI assumed that the transfer of the Record of the Inquiry to the Keeper and the other records to TS, would be completed by the summer of 2024. The period of a year to complete the relevant transfers proved to be a reasonable assumption based upon the timescale of subsequent events.

In October 2023, when NRS officials were in the process of determining which Records they wished to be transferred to the Keeper, a Data Protection Officer from the Scottish Government asked NRS and TS for details of the data protection measures that would be in place after the closure of the Inquiry. This resulted in NRS officials suspending work on the transfer of the Record of the Inquiry to the Keeper until they had had discussions with TS officials and reached agreement with them about this issue. All discussions were between officials in NRS and TS. ETI officials were not included and are unaware of the details of the discussions. Intermittently, when ETI officials enquired with NRS about progress with the transfer of the Record of the Inquiry, NRS officials confirmed that negotiations were continuing. Ultimately, in June 2025, NRS officials notified ETI officials that an agreement had been reached between NRS and TS.

In July 2025, NRS resumed the process of checking the Records and thereafter identified the Records to be included as the Record of the Inquiry to be transferred to the Keeper.

The delay of almost two years caused by NRS and TS resulted in ETI incurring additional expenditure mentioned below.

For completeness, in July 2024, NRS officials also raised an issue about the existence of Restriction Orders granted by the Chairman in respect of 13 documents, to protect legal privilege or commercial confidentiality. They were concerned about the implications of the existence of these Restriction Orders for the archiving of the Record of the Inquiry. They enquired whether the Chairman would be willing to remove the Restriction Orders. The Chairman advised that removing the Restriction Orders was not possible without formal proceedings involving the owners of the documents, Core Participants, and perhaps the Lord Advocate - acting in the public interest, and that the Chairman would not reconvene public hearings for that purpose.

In March 2025 NRS officials advised the Secretary to the Inquiry that this issue had been resolved. Accordingly, this issue did not delay the transfer of the Record of the Inquiry. The cause of the delay of almost two years was the protracted negotiation between NRS and TS, to resolve the issue of data protection measures post Inquiry closure.

Following the resumption of the work to transfer the Record of the Inquiry in July 2025, the time taken to complete that and to transfer other records to TS, was of the order of a year. It is difficult to give a precise cost of the delay of about two years but the estimated cost is in excess of £500,000. This is based upon actual expenditure between September 2024 and the present date that would not otherwise have been incurred. Such expenditure includes computer maintenance fees, website fees, fees for the internet service provider and the salaries of staff who would have concluded their duties with ETI and would have transferred to other departments in or about September 2024. The estimated figure does not include the additional cost of the necessary extension of the contract with Epiq for system support services or the cost of transferring records to TS. The total cost for system support services between September and the present date is of the order of £157,000. Some of that would have been incurred if the Records had been transferred before September 2024, but additional costs within that figure caused by the necessary extension and the delayed process of transfer, would increase the estimated cost of the delay.