

Provision and Handling of Documents

Introduction

1. This Guidance Note sets out the approach that is being taken by the Inquiry with regards to the receipt, handling and redaction of documents received by the Edinburgh Tram Inquiry, as well as the approach to the provision of such documents to third parties, including the public.
2. This Guidance Note should be read alongside [Inquiry Procedure Direction No 2 – Production of documents to the Inquiry](#), and provides additional detail on these matters.
3. The Chairman reserves the right to revise this Guidance Note, or to issue subsequent guidance or directions as required. Any further direction or guidance will be published on the website.

Definitions

4. In this Guidance Note:
 - “Interested Party” (IP) is a person or an organisation that has documentary or other evidence relevant to the Inquiry. References to any “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.
 - “Core Participant” (CP) is a person or an organisation designated by the Chairman under rule 4 of the [Inquiries \(Scotland\) Rules 2007](#) (the Rules). A CP is a person or an organisation who played, or may have played, a direct and significant role in the tram project. See [Inquiry Procedure Direction No 6](#). Most if not all CPs will be an IP but not all IPs will be CPs
 - “Document” or “documents” means anything in which information of any description is recorded, whether in paper or electronic form. The terms include, but are not limited to, reports, reviews, minutes of meetings, governing/constitutional documents, legislation, letters, emails, information from websites, guides, codes of conduct, policy documents and articles, drawings, contracts and annexes of contracts, including drafts and annexes of contracts, and copies of data bases.
 - “The Act” means the [Inquiries Act 2005](#).

Provision of documents to the Inquiry

5. Provision of documents to the Inquiry is covered by [Inquiry Procedure Direction No 2](#). IPs and CPs, including legal representatives, should provide any document or information requested by the Inquiry together with any other

information they consider relevant within time limits specified by the Inquiry. They are required to undertake comprehensive, thorough and rigorous searches in response to a request for a document or information. In the event that an extension of time is required, an application in writing should be made as soon as possible setting out the reasons for the extension being required.

6. The provision of information to the Inquiry must not be delayed on the grounds that CPs and IPs may seek the redaction of material contained in the document or a restriction order. The Inquiry has established procedures to ensure that such an application can be made and considered before a document is disclosed or published.
7. It should be noted that in terms of section 35 of the Act it is an offence for a person during the course of an Inquiry to distort, destroy, intentionally suppress, conceal or alter a document that the Inquiry would wish to be provided with if aware of its existence.

Handling of information and data

8. For data security purposes, the Inquiry prefers to receive collections of documents from IPs and CPs with encryption with the appropriate key. If this is not possible, it will use the services of the Scottish Government to encrypt the data on the Inquiry's behalf, with a member of the Inquiry Team overseeing the process to ensure that data is not reviewed, copied, or held, other than for encryption purposes.
9. The Inquiry has procured the services of a specialist litigation support company (DTI) and an eDiscovery tool (Relativity) to help the Inquiry team manage and review the material collected for the Inquiry. The database is held off-site in secure premises and access to the material is only available to authorised personnel with appropriate clearance.
10. Electronic material is added to this database for processing and reviewing by the Inquiry team. Hard copy material is scanned and then added to the database in its electronic form, with the hard copy material returned to the original custodian. This technology is being used by the Inquiry to assist with the handling and review of the vast quantities of documentation provided by the IPs.

Reviewing documents

11. All documents (data) received by the Inquiry go through a number of processes designed to reduce the very large quantity of material received to an amount that is manageable but also sufficiently comprehensive to allow the Inquiry and the CPs to identify the key issues that need to be addressed.

12. All electronic data received by the Inquiry Team is held by DTI in its secure premises. A sub-set of this material, which the Inquiry team identifies as potentially relevant, is added to the Relativity database. Technology is then used to refine the search to identify material that is relevant to the Inquiry's terms of reference. This set is further refined to determine what material needs to be released to the CPs and used as material evidence to be presented at the Inquiry and upon which the Chairman will prepare his report.
13. All through this process the only people who have access to this information are members of the Inquiry team and the specialist support team at DTI. All are subject to a duty of confidentiality.

Redaction

14. All information received by the Inquiry is treated as confidential until it is disclosed to potential witnesses, CPs or the public, as part of carrying out the functions of the Inquiry.
15. Any material which is to be released by the Inquiry to CPs and then used in oral hearings will prior to release be reviewed by the Inquiry team and will be redacted where necessary in order to remove any personal and sensitive personal information, any offensive or inappropriate language, and any confidential material as determined by the Chairman. The type of information being redacted includes personal finance information, personal home addresses and home email addresses.
16. Those who provide documents to the Inquiry are able to request the redaction of material prior to publication. The Solicitor to the Inquiry will consider each request for redaction on its merits and with regard to the Act, the Rules, the redaction policy set out above, and any other relevant factors. If the Solicitor to the Inquiry is not minded to accept the request for redaction, the provider of the document will be informed of this in writing. To challenge the decision a written application must be made to the Chairman for a restriction order as set out in Procedure Direction No 2.

Provision of information to Core Participants

17. The Inquiry team will consider the documents received and identify which are appropriate to put forward to the oral hearings and to form the basis of the evidence upon which the Chairman will prepare his report. These documents are being added to a separate database, also using the Relativity software. This database will be made available to all CPs. Each CP will have a login and will be able to see all of the material that the Inquiry is relying on for evidence. Training is also provided.
18. Each document within the system has a unique reference number (URN) and each page will be numbered. During the oral hearings and in communications

with the Inquiry prior to the hearings the URNs and page references will be used to identify parts of these documents.

19. Material will be added to this system as and when it is made ready for distribution. CPs will be informed each time new material is added.

Showing documents to witnesses

20. In the course of taking statements from witnesses it will be necessary for the member of the Inquiry Team taking the statement to show them documents that have been obtained by the Inquiry. Most of these documents will be referred to in the statements, and all of these documents will be available within the database for CPs.

Publishing

21. Documents referred to in the course of the hearings or referred to in witness statements taken for the purposes of the Inquiry will be made available to the public on the Inquiry's website, at some point, either during the Inquiry proceedings or when the Inquiry Report is issued. All of these documents will have been reviewed and redacted as set out in this note.
22. At the end of the Inquiry the material that the Inquiry has used as evidence may be requested by the National Records of Scotland.

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