

By email only

City of Edinburgh Council
Waverley Court BC 2/6,
4 East Market Street,
Edinburgh EH8 8BG

28 August 2017

Email addresses - Nick.Smith@edinburgh.gov.uk
Matthew.clarke@edinburgh.gov.uk

Dear Mr Smith,

**EDINBURGH TRAM INQUIRY
INQUIRIES ACT 2005 – SECTION 21 NOTICE**

I enclose for your consideration a Notice signed by Lord Hardie in terms of section 21 of the Inquiries Act 2005 seeking recovery of documents held by or on behalf of the City of Edinburgh Council.

The Inquiry requires the production of all evidence to the inquiry (in the form of a written statement together with supporting documents) as to the basis upon which the City of Edinburgh Council were satisfied that the settlement figure following the mediation at Mar Hall was supported by calculations that had been checked independently on behalf of the CEC and I therefore enclose a Notice in terms of section 21 of the Inquiries Act 2005 requiring the City of Edinburgh Council to produce the evidence as listed in the annex to the Notice.

If you have any questions or would like to discuss anything further then please get in touch.

Yours sincerely,

[REDACTED]

Gordon McNicoll
Solicitor to the Edinburgh Tram Inquiry

INQUIRIES ACT 2005
NOTICE IN TERMS OF SECTION 21

In terms of section 21(2) of the Inquiries Act 2005 ("the Act"), notice is hereby given to City of Edinburgh Council (CEC), having a place of business at Waverley Court BC 2/6, 4 East Market Street, Edinburgh EH8 8BG, that, as Chairman of the Edinburgh Tram Inquiry, I require CEC (a) to provide evidence to the Inquiry in the form of a written statement, certified as true and authenticated by CEC, as specified in paragraph 1 of the Annex attached to this Notice and (b) to provide the documents specified in paragraph 2 of the said Annex by delivering to the Solicitor to the Inquiry ("the Solicitor"), Floor 1, Waverley Gate, 2-4 Waterloo Place, Edinburgh, EH1 3EG no later than 4.30pm on Monday 11 September 2017 the said authenticated written statement and the said documents.

In terms of section 35 of the Act, if CEC fails without reasonable excuse to comply with the requirements of this Notice it will be guilty of an offence and liable on summary conviction to a fine not exceeding level three on the standard scale.

In terms of section 36 of the Act, if CEC fails to comply with, or acts in breach of, this Notice or threatens to do so I, or after the end of the Inquiry the Scottish Ministers, may certify the matter to the Court of Session which, after hearing any evidence or representations, may make such order by way of enforcement or otherwise as it could make if the matter had arisen in proceedings before that Court.

If, in terms of section 21(4) of the Act, the City of Edinburgh Council wishes to claim that it is unable to comply with this Notice, or that it is not reasonable in all the circumstances to require it to do so, it must submit in writing to the Solicitor a claim to be received by him no later than 4.30pm on Wednesday 6 September 2017 specifying the reasons justifying such a claim.


Lord Hardie
Chairman
Edinburgh Tram Inquiry

28 August 2017

Annex to Notice dated 28 August 2017

- 1) A written statement under section 21(2)(a) of the Inquiries Act 2005 explaining, with reference to relevant documents (if any), the basis of calculation for, or derivation of:
 - a) the price of £362.5m stated in paragraph 1 of the Agreed Key Points of Principle dated 10 March 2011 (CEC02084685) and in paragraph 6.1 of the Heads of Terms signed on or around 12 March 2011 (CEC02084685) (copies of both of which documents are appended here for ease of reference);
 - b) the proposed price (or target sum) of £39m stated in paragraph 2 of the said Key Points of Principle and paragraph 6.3 of the said Heads of Terms.
- 2) Under section 21(2)(b) of the Inquiries Act 2005, any documents in the custody or control of City of Edinburgh Council referred to in the written statement supplied under paragraph 1.

